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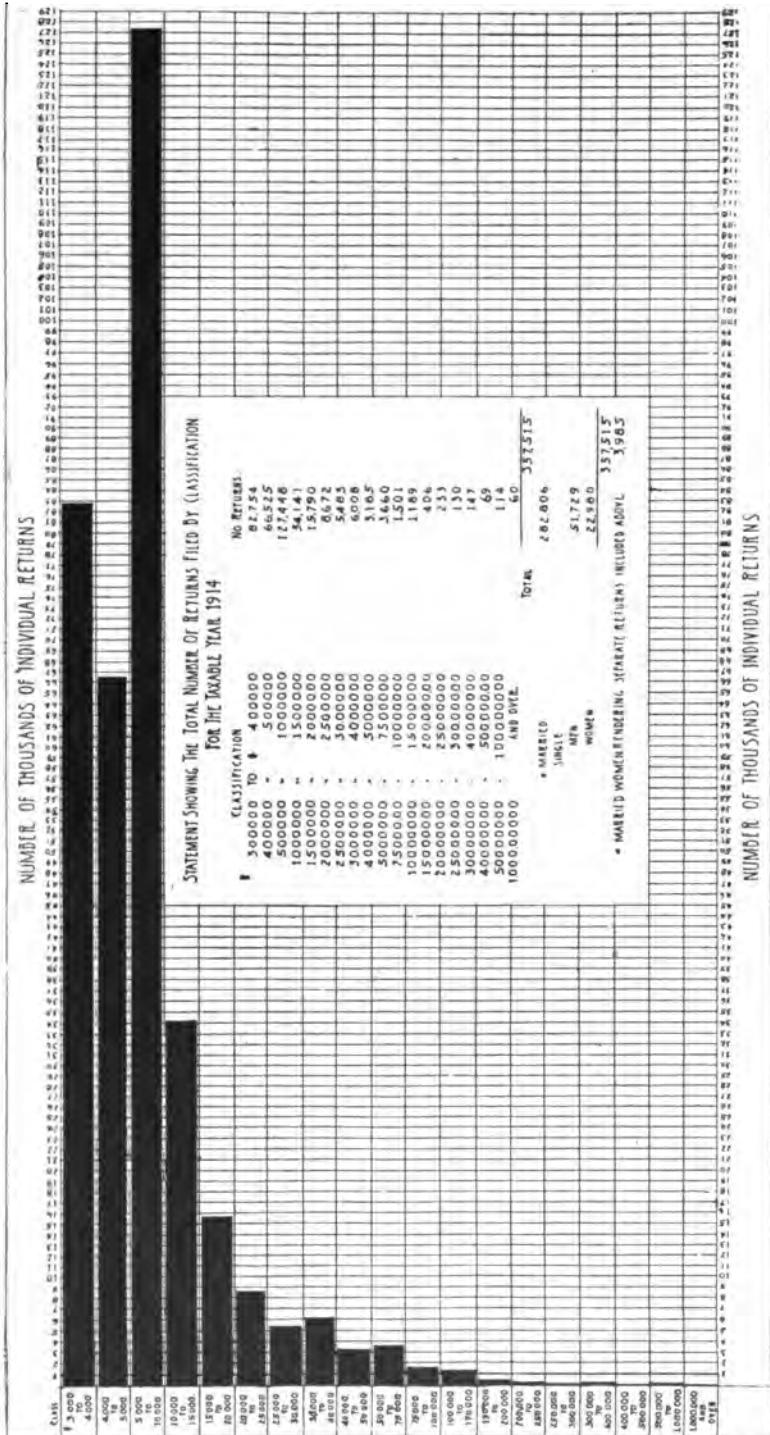
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Table and chart showing the total number of individual income-tax returns filed, by classification, for the taxable year 1914.



(From Report of Commissioner of Internal Revenue, 1915.)

FEDERAL INCOME TAX

A PLAIN PRESENTATION OF THE COMPLEX LAW
FOR THE BENEFIT OF THE LAWYER
AND THE BUSINESS MAN

BY

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(Alphabetical Index in Last Part of Volume)

Frontispiece: Chart of Statistics.

Introduction: Purpose and aim of book; general view of contents; how to use Index; proposed amendments to present law, etc.

Abbreviations.

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INTRODUCTION

An eminent artist said that, to get the full value of his work, it must be viewed from the viewpoint of the artist himself. In the same sense the authors of this book on the Federal Income Tax believe that a careful consideration of these introductory paragraphs will prove beneficial to the reader in his effort to gain a comprehensive understanding of this complex and very much misunderstood law.

The motive of this publication is in the fact that there is not a treatise on the subject that is intelligible to any one unacquainted with legal phraseology, and similarly there is none that is both brief and complete, and which is based on the Supreme Court construction of the law; hence the purpose of this effort is to reduce the requirements of the new law to plain language so that any one by reading it may clearly grasp it and know his rights as well as his duties under the law.

While fulfilling this aim for the general reader who may be liable for the Income Tax, we have endeavored at the same time to make this work equally desirable and valuable for the lawyer. We have tried to strike a happy medium in a book that is so plain that it cannot fail to be understood and so complete and accurate that nothing essential shall be left out of it. All the law is given for reference, and, by the use of the Index to the law and the explanations, it is believed that the answer to any desired question may be easily

and quickly obtained. All the law and the constructions and regulations are included with the analysis in one alphabetical Index.

In developing these aims we have not followed the usual style of law books. We have tried to meet a demand, not to create one. In the first part of the work we give the one-page summary, by the mastery of which the reader will have a general idea of the law, and this will aid him in grasping the details. Next we give our own plain outline of the main requirements of the statute in brief paragraphs that include answers to all the usual inquiries of persons interested. By the cross-index the reader is referred to all other parts of the work. Following this are the complete Statute, the Regulations of the Treasury Department, the special rulings, the Supreme Court opinion in the *Brushaber case*, Forms, Statistics and the Index.

The Statute and the Regulations are given in full, and without accompanying comment. The Regulations by the Commissioner of Internal Revenue cover the closest details and are secondary in importance only to the Statute itself. They contain all the regulations made by the Department for the current year in which this book goes to press.

The reader who undertakes to gain a general knowledge of the new law is advised to read the book in the order in which it is given. When an answer to a particular question, however, is needed, the proper method is to consult the Table of Contents and then, if necessary, the Index. Both the Table

of Contents and the Index have been made as complete as possible, and under the name of the subject indicated the searcher will find his references to that point in every part of the book, including the authors' explanation, the forms, the Statute, the Regulations and the Statistics. On account of this feature of the Index, we have not cumbered the explanatory paragraphs with numerous citations of authorities, but give only such references to cases and other works as may be really useful. The case of *Brushaber v. Union Pacific Railroad* (¶13) practically covers all the Statute.

From the Report of the Commissioner of Internal Revenue for the fiscal year ending June 30, 1915, it is made plain that the administration of the new law has been effective and that only minor changes are contemplated in the near future. One of these is that all persons having "gross" incomes of \$3,000 or more be required to list the incomes. At present the requirement is for "net" incomes, so that the individual with an income near \$3,000 is practically left to be his own judge as to whether or not his "net" income is up to the required amount. A second probable amendment is to require partnerships to list the partnership income as now required of corporations, instead of the present arrangement, which only requires the partners to list their own proportionate parts of the income.

The present law requires the return of the income to be made in the district where the taxpayer's principal place of business is located, and it is proposed that this be changed

so that the return shall be made in the district of the legal residence of the taxpayer. These, and other suggestions concerned with the administration of the law, are the only probable changes contemplated except such as may arise for the purpose of increasing revenue. For this latter purpose it is proposed that the \$3,000 limit be lowered so as to include net incomes exceeding \$1,000, and between this idea and the opposing one of placing a heavier additional tax on the great incomes, will be fought out the future battles in connection with the Income Tax.

Because of the changes that will likely be made during the ensuing year, a concise supplement to this work will be published soon after the amendments are enacted, which will probably be on or about the first day of 1917. As these new amendments, whatever they are, will affect only the taxes for 1917, this supplement will be all that is needed for additional information for the year 1917, and doubtless for several years thereafter.

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FEBRUARY 10, 1916.

ABBREVIATIONS

(Used in Cross References, Index, etc.)

¶ refers always to the paragraphs in the Analysis or first part of this book. ¶42 signifies paragraph 42 of the Analysis.

Int., Introduction.

T. R., Treasury Regulations, articles 1-199, Part III.

T. D., Treasury Department special rulings, Part IV.

St., Statute, Part II.

"Statute" refers always to the complete Federal Income Tax Law, now in force, enacted October 3, 1913, and given in full in Part II.

"Analysis" refers always to the 58 paragraphs in the first part of this book.

"R. S." refers to the Revised Statutes of the United States.

"Sup. Ct." refers to the Supreme Court opinion in the *Brushaber case*, Part V.

SUMMARY

The Federal Income Tax was enacted by the Congress of the United States and signed by the President, October 3, 1913.

The new law has been fully upheld by the Supreme Court of the United States, construing the Sixteenth Amendment. (¶13.)

The income on which the taxation is based is the income since March 1, 1913. (¶13.)

The calendar year is the basis for determining the income, except for certain corporations whose fiscal year ends at some other time. (¶37.)

The return for all individuals must be made on or before the first day of March of each year, this return being of the amount of income for the previous calendar year ending December 31. (¶37.)

Every individual 21 years of age, whose net income for any calendar year exceeds \$3,000, must list the income for taxation on or before the first day of the following March.

Unmarried persons pay the "normal tax" on the amount by which the net income exceeds \$3,000, and married persons pay only on the excess above \$4,000. (¶58.)

Every corporation conducted for private gain must make a return of the income, and must pay the "normal tax" on all of the net income. (¶15.)

"Net income" means the income above the expenses of conducting business, but this "expense" does not include personal or family expenses. (¶20.)

The income from Government bonds and from salaries of State officers are exempt from taxation under the present statute. (¶19.)

The "normal tax" is a tax of 1 per centum on net income. The "additional tax," ranging from 1 to 4 per centum, is on incomes exceeding \$20,000, but this additional tax does not apply to Corporations. (¶16.)

PART I

ANALYSIS

Discussion of the Income Tax law in paragraphs from 1 to 58, inclusive, with cross references to other parts of the work.

ANALYSIS

¶1. *Necessity for Taxation.* The foundation reason for public taxation is the general convenience. Certain things become essential for the public good, and it is, in any large group of people, a practical impossibility to raise the amount by toll or personal voluntary contributions, or even by general or unanimous consent. Hence arose the governmental policy of enforced taxation. The governing power decides what expense is necessary for the public welfare, and raises the required revenue by a levy or tax on all the people. The only alternative or substitute for it would be the method by which two or three persons contribute to the expense of some undertaking for their mutual benefit, and, as total equality could never be possible, this system in any nation cannot be feasible. Hence the expense is undertaken on the theory of the greatest good to the greatest number, and all are forced to contribute to it. "A sum or rate imposed by governmental authority for a public object or purpose." *Pettibone v. Smith*, 150 Pa. 118, 17 L. R. A. 423.

¶2. *Income Tax Theory.* There are two general theories of taxation, in one or the other of which all schemes of taxation are included. One is the cost to the Government of the benefits conferred upon the taxpayer, or, in other words, the taxpayer pays according to the protection afforded him, basing the amount on the actual cost to the Government. In this class comes the property tax, which each person pays according to the amount of property he owns. The other theory, under which comes the Income Tax, is that the taxpayer enjoys his benefits and opportunities by governmental protection, and therefore should pay according to his ability to pay. It is argued that a man who has income from the management of his property, as, for instance, a merchant, should not be liable for tax any more than the professional man whom by fees or tuition the merchant helps to support and whose income is not connected with care of property and its dangers and losses. As a further corollary to this, it is contended

that the income from a professional man's labors should not be taxed as high as the income from his or another's vested property, and this principle is part of the Income Tax system of England where "earned" income has rights over "unearned" income. "The power of taxation is exercised upon the assumption of an equivalent rendered to the taxpayer in the protection of his person and property." *Transit Co. v. Kentucky*, 199 U. S. 202. To this is now added the extension that the taxation may also consider the special circumstances by which one man's income is greater than another man's, though the amount of their property may be the same. See ¶10 and ¶13.

¶3. *First Taxes Were Income Taxes.* When the wandering tribes, before the days of established governments and fixed boundaries, faced the necessity of compelling recalcitrants to assume their proportional parts of the general expense, taxation became necessary, and the first tax levied was a tax according to ability to pay, or an Income tax. It was the policy of the ancient kings to take from their subjects according to their ability to contribute, and on the same theory was based the biblical taking of a tenth of the income to the Church, which was then also the Government.

For the complete History of Income Tax Laws, refer to Foster's "Income Tax," 1915.

¶4. *Income Taxes in Europe.* In all European countries the Income Tax has afforded an irregular source of income as far back as history goes. To give the account of it would fill a volume with the simple record. In England, what might be called the modern tax was first begun in 1799. It was amended and modified often until 1853, when the act which is chapter 34 of the 16th and 17th Victorian Statutes may be said to have found a permanent basis. The present English act, 7 Edward VII., chapter 13 (August 9, 1907), taxes all incomes in excess of 150 pounds, or our approximate equivalent of \$750. The present tax on the lowest income is in excess of a shilling on a pound, or approximately in our money of four cents on the dollar above \$750, with additional

taxes on larger incomes to the extent that of the highest incomes the English tax now takes about 40 per cent. In England the Income Tax affords the chief source of revenue. In France, Germany, and other nations it is also an important part of the revenue system.

¶5. *State Income Taxation.* From the early days of the Plymouth Colony to the present there have been numerous and sundry experiments with the Income Tax, in the Colonies first, and later in many of the States of the American Union. The tax, in one form or another, has existed in Massachusetts since 1646, but has produced but little revenue and is hardly worthy of the name of a tax. (*Wilcox v. Middlesex County Commissioners*, 103 Mass. 544.) In Virginia the tax has existed since 1898 and has produced more income there than any other State tax. The other States where the tax is now in force as a part of the State revenue laws are South Carolina, Wisconsin, Tennessee, North Carolina, and Oklahoma. It is also in effect in Hawaii and has been in the Philippine Islands, but was repealed there in 1904; and it has been tried in different forms and at various times in a number of other States. The new law applies, of course, to Hawaii and the Philippines. (St. M.) The constitutions of Virginia, North Carolina, Texas, California, and Tennessee expressly authorize a tax on incomes, though in Tennessee and North Carolina it can only affect incomes from other sources than from property which is taxed. The Congress of the Confederate States of America (April 24, 1863) imposed an Income Tax on incomes exceeding \$500, and at a rate increasing to 15 per cent, and this was later raised to 25 per cent. It applied to individuals, corporations, and joint stock companies.

¶6. *Constitutional Provisions.* The sections of the Constitution bearing upon the subject of the Income Tax, the combined meaning of which could never be settled until the enactment of the Sixteenth Amendment, are as follows:

9th Amendment: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. *Spies v. Illinois*, 123 U. S. 131; *Jack v. Kansas*, 199 U. S. 372.

10th Amendment: The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. *Curtin v. Benson*, 22 U. S. 78; *Interstate Commerce Com. v. Transit Co.*, 224 U. S. 194.

Article I, section 2: Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers * * *.

Article I, section 8: The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States. *Hooe v. United States*, 218 U. S. 322; *Flint v. Tracy Co.*, 220 U. S. 107.

Article I, section 9: No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken. *Spreckles Co. v. McClain*, 192 U. S. 397; *South Carolina v. United States*, 199 U. S. 437.

See ¶12 for 16th Amendment; ¶10 for *Pollock case*; ¶13 for *Brushaber case*, which in full, in Part V, construes all these provisions.

¶7. *Direct and Indirect Taxation.* Section 9 of Article I of the Constitution, which was one of the sections protecting the States on an equal basis, declares that no direct tax shall be laid unless in proportion to population, and section 2 of the same article has practically the same provision. Direct tax is tax directed at an individual or corporation, including capitation or "poll" tax, property taxes, taxes on business, incomes, etc. Indirect taxation is that imposed by what is commonly known as the tariff on goods imported into the country, and which is a tax on the goods, and not on a person. All internal revenue paid by individuals was indirect taxation until the passage of the Sixteenth Amendment. (Cooley on Taxation.) According to the *Pollock case*, hereinafter discussed, there is no tax outside of direct taxation on the one side, and "duties, imposts and excises" on the other. Under this definition Congress could only levy tariffs on imports, taxes on business, like tobacco and liquor manufactures; and all other taxes levied by Congress must be apportioned equally among the States. Hence a capitation

tax or any other direct tax was an impossibility to Congress until the new amendment expressly conferred the power with regard to incomes. As to whether or not the income tax was a direct tax was the problem upon which the division came that forced the amendment.

"The distinction between direct and indirect taxation was well understood by the framers of the Constitution and those who adopted it. Under the State systems of taxation all taxes on real estate or personal property or the rents or income thereof were regarded as direct taxes. The rules of apportionment and uniformity were adopted in view of that distinction and those systems." *Chief Justice Fuller, Pollock v. Trust Co.*, 157 U. S. 573.

See *Brushaber case*, ¶13.

¶8. *First National Laws.* A Federal Income Tax was recommended by the Secretary of the Treasury in 1812, but not enacted. By act of August 5, 1861, a tax of 3 per centum was imposed on all incomes in excess of \$800, but this was repealed by the act of July 1, 1862, which in turn laid the 3 per centum tax on all incomes between \$600 and \$10,000, and 5 per centum on the excess above \$10,000. June 30, 1864, the rate was increased to 5 per centum between \$600 and \$5,000, $7\frac{1}{2}$ per centum between \$5,000 and \$10,000, and 10 per centum on all over \$10,000. March 3, 1865, the rate above \$5,000 was fixed at 10 per cent. March 2, 1867, the tax was fixed at 5 per cent above \$1,000. The rate was cut in half July 14, 1870, and the entire law expired by limitation the following year. During all this time the constitutionality of the law was not questioned, though it may be assumed that this fact was partly due to the stress of war. For further history of income taxes in general, see Foster's "Income Tax." *National Bank v. United States*, 101 U. S. 1; *Springer v. United States*, 102 U. S. 586. See ¶13.

¶9. *The Act of 1894.* August 28, 1894, Congress again enacted an Income Tax, this levying a tax of 2 per centum on all incomes exceeding \$4,000 a year. This act was amended as to time of filing returns, February 19, 1895. The first tax under the act was due to be paid on or before July 1,

1895, but before that limit was reached the act had been declared unconstitutional. (See ¶13.) 28 St. at L. 509, 3 Fed. St. Ann. 622, 28 St. at L. 971, *Pollock v. Farmers Loan and Trust Co.*, 157 U. S. 429, 158 U. S. 601.

¶10. *The Pollock Case.* It is possible that there would have been no attack on the constitutionality of the act of 1894 except for the exemption of incomes of less than \$4,000, the previous exemption having been only \$600. Because of this radical change, four-fifths of the tax under the act would have been paid by the States of Pennsylvania, New York, New Jersey, and Massachusetts. The statute made it impossible for an injunction to be granted against the tax collector (Rev. St. 3224), and by any of the usual methods of bringing suit the final decision would have been delayed until many millions of dollars had been paid in tax. Hence it was that Pollock, a private citizen, as a stockholder in the Farmers Loan and Trust Company, petitioned the courts to enjoin the company from paying the tax. By mutual consent the case was hurried to the final decision. Chief Justice Fuller, for a divided court, decided that the tax on income from real estate was a direct tax, and hence the act taxing income from real estate was unconstitutional. In his opinion he recalled the careful guarding of the rights of the wealthier States by the makers of the Constitution and was plainly influenced by the consideration that the act would levy heavily on a few States and almost none at all on others. (*Pollock v. Loan and Trust Co.*, 157 U. S. 429.) Both sides were dissatisfied with this decision and asked for a rehearing, and, in the second opinion, the Court again divided, it was held that the tax on income from personal property was also direct taxation, and hence the entire act was unconstitutional. *Pollock v. Trust Co.*, 158 U. S. 601. See ¶13 for synopsis of the *Brushaber case*, and see opinion in full in Part V of this volume.

¶11. *Corporation Excise Tax of 1909.* By the Act of August 5, 1909, there was imposed a tax of 1 per centum on incomes in excess of \$5,000 of all corporations other than

partnerships. This tax as enacted is "a special excise tax with respect to the carrying on or doing business by such corporation," etc. 36 St. at L., ch. 6, page 112. This act was held to be constitutional, but comes under the name of excise tax and is not an income tax, though the tax is based on the amount of income. *Flint v. Stone Tracy Company*, 220 U. S. 107. This Excise Tax Law was repealed by the present Income Tax Law. The normal tax on corporations of the new law (section G-a) takes the place of the old excise tax. Section S, at the end of the Statute in this book, provides for the collection of the tax to March 1, 1913, when the new tax became effective. For all purposes, the present income tax on corporations (¶15) is substantially the same as the excise tax of 1909, except that the excise tax exempted \$5,000 and the Income Tax of 1913 does not.

¶12. *Sixteenth Amendment.* The constitutional amendment expressly authorizing a Federal Income Tax is in the following words: "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportioning among the several States, and without regard to any census or enumeration."

Notwithstanding the unrestricted power the Act of 1913 does not tax the income from salaries of State officers, nor from bonds of a State or any political subdivision thereof, these exemptions being in deference to the previous opinions of the Supreme Court that such income could not be taxed.

The Sixteenth Amendment was proposed to the legislatures of the forty-eight States by the Sixty-first Congress, on the 12th day of July, 1909. The Secretary of State, in a proclamation dated February 25, 1913, declared the amendment to be a part of the Constitution, having been ratified by thirty-eight of the forty-eight States. Only three States actually rejected the amendment, these being New Hampshire, Rhode Island and Utah. It was apparent from the ratifications that the objection upon which the Act of 1894 was declared unconstitutional was more of a theory than a fact. The basis of that objection was that the States of New York, New

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Jersey, Massachusetts and Pennsylvania, being the wealthiest, would be discriminated against. Of these States, all except Pennsylvania ratified the amendment, and Pennsylvania did not act on it. Illinois, which was third in the amount of tax paid in the first year of the operation of the law, was the fourth State to ratify the amendment. (See U. S. Senate Constitutional Manual, 1913.) See ¶13 and *Brushaber case* in full in Part V, construing the Sixteenth Amendment.

¶13. *Constitutionality of New Law.* The present Income Tax law was declared constitutional in a comprehensive opinion by the Supreme Court of the United States, January 24, 1916, in the case of *Brushaber v. Union Pacific Railroad*, given in full herein as Part V. The opinion of the Court was unanimous, but Justice McReynolds took no part in it because of his activity in connection with the subject when he was Attorney-General. Chief Justice White wrote the opinion for the Court, and in every point the validity of the statute was upheld. The case was exactly similar in its inception to the *Pollock case* (¶10). A private stockholder brought an action against the railroad company to restrain it from paying the tax on the ground that it was unconstitutional. The Court sustains the ruling in the *Pollock case* that the income tax is a direct tax, and, therefore, previous to the Sixteenth Amendment (¶12), it could not be valid without being apportioned out among the States. The basic error of the attack on the law, according to the Court, was in assuming that the Sixteenth Amendment conferred the power to levy an income tax, whereas the power had always existed, and "the whole purpose of the amendment was to relieve all income taxes from a consideration of the source whence the income was derived." As to the "uniformity" required by section 8 of Article I of the Constitution, the Court holds that this means merely that the law must be the same in all the States, and nothing more than this. The principal detail argued to the Court was the withholding provision requiring banks, etc., at their own expense to withhold and pay tax, and

the Court upheld this as not violating the "due process of law." The Court declared valid the retroactive provision making the tax date from March 1, 1913, though the law was enacted October 3, 1913; there being nothing in the Constitution prohibiting retroactive taxation, and it not being in violation of the "due process" clause of the Fifth Amendment. Exemption of labor and agricultural organizations (¶15) was upheld. Limitation of the amount of interest allowed to be deducted by a corporation (¶22), deduction of income from dividends by individuals, but not by corporations (¶49), denial of a "second exemption" for additional tax (¶16), difference in specific exemption for husband and wife when not living together (¶52), denial of deduction for rent (¶48), and distinction between farmers and others with regard to personal and family expenses (¶21, 51) were the chief other points declared valid by the Court. See Constitutional Provisions (¶6) and Excise Law (¶11). For details in the *Brushaber case*, see references in the General Index of this book, preceded by "Sup. Ct."

¶14. *The Act of October 3, 1913.* This law, signed by the President, October 3, 1913, is the subject of this book, and the various provisions of it will be explained in subsequent paragraphs. The complete statute, which is section 2 of the Tariff act of 1913, is given elsewhere in this volume, together with the Treasury Department rulings concerning the operation of it, and the Supreme Court construction of it. (¶13.) The bill was passed by the House of Representatives May 8, by a vote of 281 to 139, and by the Senate, September 9, by a vote of 44 to 37. It was then sent to conference regarding minor disagreements between the two houses, and was finally adopted in the Senate October 2, and in the House October 3, and the President signed it October 3. The bill was carefully drawn to meet all constitutional objections, and is held to be entirely valid in the *Brushaber case* given in full in Part V of this work. (See ¶13.) The total receipts under the law in 1914 (for the last ten months of 1913) were \$71,381,274.69. For the full year of 1914, the

taxes for which were collected in 1915, the total receipts were \$79,999,834.25. See Statistics in last part of this volume.

¶15. *Corporation Income Tax.* Every corporation, joint-stock company, insurance company or association, not including partnerships, doing business for private gain in the United States, shall make a return of the income for each year, and is required to pay a tax of 1 per centum on all the net income, however small it may be. (T. R. 163.) There is no additional tax on corporations, but the 1 per centum on the entire net income, known as the normal tax, is the extent of the corporation income tax; but see Dividends, ¶49. If the corporation is a foreign one the tax is based only on the income accruing from business in the United States. The law does not apply to labor, agricultural, or horticultural organizations (T. D. 2090, page 18, and T. D. 1996) or to mutual savings banks not having capital stock represented by shares, nor to fraternal beneficiary societies operating under the lodge system, nor to domestic building and loan associations, nor to cemetery companies operated not for gain, nor to corporations or organizations operated for religious, scientific, charitable, or educational purposes, nor to business leagues, boards of trade, chambers of commerce, civic leagues, etc., which are not operated for profit or for the benefit of any private stockholders. (T. D. 1967.) In brief, the tax applies only to corporations conducted for the profit of the private stockholders and not for public good. (T. R. 87.) The tax does not apply to income from any public utility operated wholly or in part by the State or any municipality, etc., in such a way that the tax would fall as a burden on the Government. (See in full section G a of the Statute.) Corporation Bookkeeping, ¶57. Forms and Instructions in last part of this book. Corporation fiscal year, ¶37, and T. D. 2029.) Treasury Regulations, Articles 76-186, and T. D. 2152, pages 2-6. For Corporation deductions, see T. R. 113. Bonds guaranteed tax-free, T. D. 1948.

¶16. *Rate of the Individual Tax.* The rate of taxation on the income of individuals is 1 per centum (known as the

normal tax) on the income above \$3,000, if unmarried, and above \$4,000 if married (¶58). Every individual whose net income exceeds \$3,000 in any calendar year must make a return of his income to the collector of his district before March 1 of the succeeding year. The normal tax of 1 per centum is on the income above the \$3,000 or \$4,000 and up to \$20,000. On the income from \$20,000 to \$50,000 the tax is 2 per centum. Between \$50,000 and \$75,000 it is 3 per centum. From \$75,000 to \$100,000 it is 4 per centum. Between \$100,000 and \$250,000 it is 5 per centum. From \$250,000 and \$500,000 it is 6 per centum and 7 per centum on the excess above \$500,000. To apply the tax on an income of a million dollars will serve to make the requirement plain. On the first \$20,000 the tax is 1 per centum above \$4,000, or \$160. On the next \$30,000 it is 2 per centum, or \$600. On the next \$25,000 it is 3 per centum, or \$750. On the next \$25,000 it is 4 per centum, or \$1,000. On the next \$150,000 it is 5 per centum, or \$7,500. On the next \$250,000 it is 6 per centum or \$15,000. On the next \$500,000 it is 7 per centum, or \$35,000. This makes the total income tax on a net income of a million dollars amount to \$60,010. See first and second paragraphs of the Statute. T. R. 1 and 2.

¶17. *Who Must Make Returns of Income.* Every corporation conducted for private gain must report the income regardless of the amount. (¶15.) Every individual who is as much as 21 years of age and whose net income is more than \$3,000, must make the return. (T. R. 15-18.) Every fiduciary, guardian, trustee, etc., who is entrusted with the management of the funds of another whose income amounts to more than \$3,000 must make the return of the income. (¶33.) In this income is not to be included any income from dividends of corporations which also pay the tax. (¶49.) In no case is any return required from an individual where the net income does not exceed \$3,000. (St. D.) Time and place for making returns, ¶37. There are five different forms for income returns, these being for individ-

uals, fiduciaries, withholding agents, corporations other than insurance companies, and insurance companies. See individual and corporation forms herein. Corporations, ¶15. Insurance Companies, ¶43. Returns generally, ¶53. Fiduciaries, ¶33. Withholding agents, ¶32. Mutual Telephone Companies, etc., T. D. 1933. Exempt corporations, T. R. 87, and T. D. 2090 "exempt."

¶18. *Gross Income Defined.* The tax is based on net income, but every person who makes a return of his income must list his gross income, and gross income includes all income, gains and profits from all sources whatever in the calendar year for which the return is made (T. R. 4), except as mentioned in the succeeding paragraph, and does specifically include all of the following: salaries and wages (¶31), compensation for personal services in whatever form paid, professions (¶47), vocations, business (whether the profits are actually divided or not, as in partnerships) (¶36), trade, commerce, sales, dealings in personal or real property (¶50), interest, rents (¶48), dividends (¶49), or from any business or transaction for gain, including the income from, but not the value of the property obtained by gift, bequest, devise or descent (¶29). Insurance companies' gross income, T. R. 97-102. Manufacturing company, T. R. 104. Mercantile corporation, T. R. 105. Miscellaneous corporations, T. R. 106. Mutual fire insurance company, T. R. 108. General definition gross income, T. R. 107.

¶19. *Nontaxable Gross Income.* The following are not to be considered as a part of the gross income and need not be listed in making the return of the Income: proceeds from life insurance policies of any kind except interest payments made to beneficiaries (¶30); income from United States bonds or of any of its possessions, or from bonds of a State or of any of the political subdivisions thereof (¶28); income from salaries paid to officers of a State or any subdivision thereof, including public school teachers, unless such salaries are paid by the United States (¶31); the value of property acquired by gift, bequest, devise or descent (¶29). The

salaries of the President of the United States for the present term and of United States judges who were in office when the law was enacted are not subject to the tax, because of the constitutional provision that these salaries shall not be changed during the term of office. (St. B.) See Article 5 of the Treasury Regulations herein, and succeeding paragraphs, to 30 inclusive.

¶20. *Net Income Defined.* Net income alone is taxable, and under the provisions of the Income Tax law net income is the gross income as defined in the two preceding paragraphs, less the deductions as noted in the following paragraphs. Gross income in realty is all income, but gross income for purposes of taxation under this act is the income less the nontaxable items mentioned in paragraph 19. From this taxable gross income the net income is obtained by deducting the expense of conducting business, interest paid on debts, taxes paid, losses sustained and not otherwise compensated, debts due to individual taxpayer and found to be worthless, and a reasonable allowance for wear and tear. These six items, discussed in paragraphs 21 to 26 inclusive, deducted from gross income, leave the legal definition of net income. Even of the net income, however, there are three items which are not taxable, to wit, the amount represented by income of an individual from stock in a corporation which has paid tax on its income (¶49), the amount of income the normal tax on which has been withheld or paid at the source (¶32), and the individual exemption of \$3,000 for an unmarried person or \$4,000 for a married person (¶58). See Insurance Companies, ¶43, "Accrued income" defined, ¶46. Treasury Regulations 1 to 6. For Corporation deductions, see T. R. 113.

¶21. *Expenses of Conducting Business.* This is the first deduction allowed from taxable gross income for the purpose of determining the net income. This deduction is meant to include the necessary and usual expenses of conducting the business. This item includes the actual expenditures during the year for conducting the business and making necessary

repairs, but not for permanent improvements or increase of capital or resources. It includes the cost of labor, fuel, lights, rent, taxes, and insurance, except for life insurance for the benefit of a personal beneficiary. The expenses for supplies for office use should include only the amount used and not the total purchased. The cost of repairs necessary for operating the business, but which do not add to the value of the business, is allowable as a deduction. "Ordinary and necessary" are the terms which fix the expenses allowed to be deducted. For fuller details, see the Treasury Regulations herein, Articles 14, 114, 116, 120. This deductible allowance cannot include personal, living or family expenses," such as medical attendance, family supplies, wages of domestic servants, cost of board, room-rent, house-rent, repairs on residence, etc. Farming, ¶51.

¶22. *Interest Paid on Debts.* This is the second deduction allowed from the gross income in fixing the net income, and is fully covered by subsection B of the Statute and the Treasury Regulations. The rules for individuals and for corporations are different. An individual is allowed to deduct all interest actually paid by him on outstanding debts during the year, provided that interest accrued during that year, and was not past-due interest, and it cannot include any payment made on the principal of the indebtedness. For corporations the same rule applies, except that the amount of the exemption is limited. The amount of corporation indebtedness for which interest deduction is allowable cannot exceed one-half of the amount of the interest-bearing indebtedness plus the paid-up capital stock outstanding at the close of the year. (T. D. 1960.) If the association or company has no capital stock then the amount of indebtedness on which the deductible interest is allowable cannot exceed the amount of capital actually employed in the business at the close of the year. Corporation indebtedness, secured wholly by collateral, which is the subject of sale in the ordinary business of the corporation, does not come within the limitation, but if the interest incoming from such collateral is returned as part of the in-

come, then all the interest paid on the collaterally secured debt is deductible. Treasury Regulations 148 and 150, and T. D. 1993. Withheld at source, §32 and T. R. 37.

¶23. *Taxes Deductible.* This third deduction is allowable to the amount of taxes actually paid out during the year, but not for taxes that became due but were not paid during the year. (St. B.) Taxes for this deduction include National, State, county, municipal and school, but not those for local benefits, such as special district taxes for irrigation, drainage, reclamation, sidewalks, streets, paving, etc. (T. D. 2090, page 11.) Taxes paid abroad are not deductible. Foreign corporations doing business in the United States are taxed only on their income from business in the United States, and only taxes in the United States are deductible. (¶34.) A corporation cannot deduct taxes assessed against its shareholders under a State statute, but the individuals deduct the amount from their own returns. Import duties are not deductible as taxes, but may be included as expense of carrying on business when they actually are so. (T. R. 155.) A corporation paying a certain tax on a contract that certain bonds, etc., shall not be taxed cannot deduct the amount of such tax. (T. R. 153, T. D. 1948.)

¶24. *Losses Deductible.* Fourth among the six deductions, according to the wording of the statute (B), is "losses actually sustained during the year, incurred in trade or arising from fires, storms or shipwreck, and not compensated for by insurance or otherwise." (T. D. 1989 and 2005.) Concerning this provision, the draftsman of the bill, Representative Cordell Hull, said in the House, April 26, 1913: "These provisions primarily contemplate allowance for losses growing out of the trade or business from which the taxable income is derived, and generally termed trade losses, as distinguished from losses of capital or principal or losses incurred entirely apart from business transactions from which income is derived. A similar rule governs deductions for expenses." The losses deductible are those occurring directly as a part of the business and as a result of the operations in connection

with it. A loss, to be deductible, must be one that has already been paid off or charged off the books, and not merely an estimated or speculative loss. Treasury Regulations, Articles 124, 126, 127, 128, 138. Insurance Companies, ¶43 and T. R. 147a. See T. D. 2135, page 5. Losses from sale of real estate (¶50) are not deductible. (T. D. 1989.)

¶25. *Debts Proven Worthless.* The fifth deduction is "debts due to the taxpayer actually ascertained to be worthless and charged off within the year." Treasury Department ruling 2224 construes this provision to include unpaid and uncollectible wages, salaries, rents, etc., provided that such were listed as income for the year in which they became due and were afterwards ascertained to be uncollectible. The same regulation says that all debts that became due and payable prior to March 1, 1913, and not ascertained to be worthless prior to that date, are allowable as deduction for the year in which they are actually ascertained to be worthless and are charged off the books. Treasury Regulation 125 construes the words "ascertained to be worthless" to mean "after legal proceedings to collect same have proved fruitless, or it clearly appears that the debtor is insolvent." If the debts are subsequently collected after being charged off, they must be listed as income for the year in which they are collected. Briefly, when one listing his income tax lists a certain debt as deductible, he must show his reason for charging it off his books, and if the Collector has any doubt about it, he has power to call for fuller details. This deduction does not apply to corporations, but only to individuals. For Corporation exemptions see St. G(b) and T. R. 113. Accrued income, ¶46. Professional fees, ¶47.

¶26. *Depreciation.* Sixth among the allowable deductions is "a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business, not to exceed, in the case of mines, 5 per centum of the gross value at the mine of the output for the year for which the computation is made." (T. R. 6, 142, 145, and T. D. 2137, page 7.) No deduction is allowable for repair-

ing or restoring such wear and tear, for which an allowance has elsewhere been made, and none for new buildings and permanent improvements made to increase the value of the property. "Depreciation" as herein allowed is entirely distinct from "losses" as discussed in paragraph 24. The "losses" must be absolute and complete, while the "wear and tear" or "depreciation" constituting the sixth allowable deduction is merely a reduction in the value and not a loss of it. This depreciation is defined by Treasury Regulation 2005 as "the deterioration of physical improvements or assets, such as are susceptible of having their value lessened through wear and tear, use or obsolescence." Shrinkage in the market value of stocks, bonds and like securities is not allowable as a deduction under either provision. This provision of the statute is clearly defined in Articles 129 and 130 of the Treasury Regulations herein, and the summary of which is that depreciation must be such as is not covered by the expenses of operating, must be due to the wear and tear of ordinary use, and must be so averaged up from year to year that all the allowances together would constitute the value of the life of the property. For "Depreciation" on Patents see ¶56. Farms, ¶51. See T. D. 2005, 2131, and 2137, page 5. Depreciation for Fiduciaries, T. D. 2267.

¶27. *Exemptions from Net Income.* This paragraph discusses the part of the net income that is not taxable (T. R. 3). The preceding six paragraphs defined the six parts of gross income which are not included in net income. Preceding them, in paragraph 19, are listed four items that are part of gross income, but not taxable and not required to be listed. All the paragraphs from 18 to 26 inclusive constitute the legal definition of net income, and this paragraph added to it defines what is taxable net income. The first exemption is that part of the net income which is represented by the dividends on stocks in corporations and other associations on which the corporation itself paid the normal tax. (St. B. and ¶49.) The second is that part of the net income on which the tax was withheld and paid at the source, as explained in para-

graph 32. The third is the exemption of \$3,000 for an individual who is not married, or \$4,000 if married. (St. C., ¶58.) This latter obviously does not apply to corporations, which are required to pay the normal tax of 1 per centum, and that only on all their net income. If both husband and wife have separate incomes, the return for both of them shall be made, but only one exemption of \$4,000 shall be allowed. (¶52.)

¶28. *Bonds.* Government bonds are not taxable under the Income law. The Sixteenth Amendment permits the tax to be levied on income "from whatever source derived," but notwithstanding this, the *Pollock case* (¶10) and many others have plainly held that one taxing power cannot tax another taxing power, and the present statute accordingly exempts the income from all Government bonds. (St. B.) The bonds exempt are those of the United States or any of its possessions, a State, city, town, or any other political subdivision of a State. (T. R. 5.) The provision does not include any kind of private obligation or bond, but only those under the legislative authority of a State or of the United States. Any bonds or obligations of any taxation district duly authorized by a State are included. By Treasury Department ruling 1946 it is held that the provision specifically includes the bonds of special assessment districts under the constitutional authority of a State, such as districts for improvements of streets or highways, sewerage, gas, light, reclamation, drainage, irrigation for public use, levee and school purposes. As to withholding the tax on bonds at the source, see paragraph 32. Bonds, other than Government bonds, with a clause guaranteeing the owner against any tax, shall not be free from the income tax. (Section G(b) of the Statute, and T. D. 1942, and T. D. 2090.) A corporation or other taxpayer is allowed deduction for depreciation in value of bonds purchased above par which decrease as the time of maturity approaches, the deduction to be proportionate with the number of years of the life of such bonds, and the decrease in value to be entered on the books of account. (T. R. 135.)

¶29. *Gifts and Bequests.* Property acquired by gift or bequest, like the income from bonds and life insurance, are in reality a part of the gross income, but are not to be considered as such for purposes of taxation. (St. B.) Any property, real or personal, acquired by gift, bequest, devise or descent, in any year, is not to be included as part of the income for that year, but the income from it during the year and after being acquired is to be included. (T. R. 4.) Treasury Regulations 120 and 121 concern donations made to others and not received by the taxpayer. Such gifts or donations which are paid as pensions to retired employees or on account of injuries received by employees, or for charitable or educational purposes directly in connection with the business, are allowable as deductions under the head of "expenses." (See paragraph 21 above.) Gifts or gratuities to employees not as a regular system in the business are not deductible for "expenses" or otherwise. (T. R. 120.)

¶30. *Life Insurance.* Income from life insurance shall not be included in the taxable income, with only one exception. (St. B.) This exception is an interest payment to a beneficiary or an excess repayment to the insured. (T. R. 56 and T. D. 2090.) Premiums paid on life insurance do not constitute an allowable deduction as necessary expense, but are a part of personal expenses. (¶21.) When a partnership or corporation pays premiums on life insurance of individual members for the benefit of the business, the amount so paid is deductible as "expenses," but when such policies mature or otherwise become payable by the Insurance Company, the amount so received must be included as income. (T. D. 2090, pages 11 and 23, and T. D. 2152.) The amount received from a life insurance policy on the death of the insured is not to be included as income by the beneficiary, and the amount received by the insured himself at the maturity of an endowment or cash-surrender policy is not to be counted as income, but the amount by which life insurance exceeds the premiums paid, when returned to the insured himself, is to be counted as income. (T. D. 2090, under head of Annuity.)

An insurance agent must return as income his commissions on insurance premiums. (T. D. 2011.) Insurance companies. (¶43.) See T. D. 2137, page 2.

¶31. *Salaries.* All salaries except those specifically exempted are taxable as income and are to be included in the return of the income, and salaries, as here used, applies to wages and other compensation for personal services. (St. B.) The tax is paid by the employer unless the amount is so uncertain that he cannot determine it, this being what is known as "withholding at the source" as discussed in paragraph 32. The amount of mileage or "subsistence," as also "board" or other compensation, is to be counted as part of the salary, but as to mileage and "subsistence," only to the extent of the excess over the actual expense. This tax applies to all officers and employees of the United States whose income exceeds \$3,000, and in such cases the amount of the tax is withheld by the paymaster and paid by him. (T. D. 2079.) (The President, during the present term of his office, and all United States judges, during present terms of office, are exempt from this tax. ¶19.) Salaries paid by a State or any political subdivision thereof, as a city, county, or town, are exempt from taxation, and this includes salaries of public school teachers unless their salaries are paid by the United States. (T. R. 5e.) No salary is taxable under any circumstances unless it, together with other income, exceeds the exemptions and deductions allowed by law as shown in preceding paragraphs. Compensation for personal services is to be returned as income, including produce, rent, board, or in "whatever form paid." For Professional fees see ¶47. For Salaries plus commissions see T. D. 2090, "Compensation."

¶32. *Withholding at Source.* This provision in subsection D of the Statute has been most misunderstood and most criticised of all the requirements. It has been said that this requirement in the English law made it a success, presumably that because of it individuals could not escape the tax; but in America it has caused complaint, and suggestions for

amending or repealing it have been made. It simply requires that when any bank or other corporation or agent has the duty of handling and receiving certain income belonging to an individual, then the corporation or other agent must withhold the tax before paying out the amount to the individual, and pay the tax to the collector. (T. R. 29-75.) This applies, however, only when the amount to be so paid out exceeds \$3,000. It does not apply to interest paid by banks on deposits. (T. R. 67.) An agent whose duty it is to collect rents, etc., for a landlord, withholds the tax only when the total amount reaches \$3,000. The provision for withholding applies only to the normal tax of 1 per centum, and does not apply to the income from dividends from stocks on which the normal tax is paid elsewhere. (¶49.) The provision as to withholding applies to banks, corporations, trust companies, associations, organizations, trustees acting in any trust capacity, agents, administrators, executors, receivers, conservators, employers, Government paymasters, and all others entrusted with the control of income payable to any taxpayer, provided such income exceeds \$3,000 (St. E.) It is not required of corporations or other organizations which are not themselves subject to the tax. (T. R. 37 and T. D. 1967.) The tax is not to be paid prior to thirty days before return is due. (T. R. 33a and T. D. 1965.) Reports are required from withholding agents on special blanks supplied by the collector of the district. (T. D. 1976.) See *Fiduciaries*, ¶33. Banks, ¶38. Partnerships, ¶36. See T. D. 2135, page 7.

¶33. *Fiduciaries*. Guardians, trustees, executors, administrators, agents, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity, are referred to as fiduciary agents by Treasury Regulation, Article 70. All such fiduciaries are required to list the income for the person for whom they act in such capacity. They list, however, only such part of the income as comes into their control. All such income which may be subject to a withholding tax elsewhere, by notice from the fiduciary, will

become subject to the withholding tax only by the fiduciary and not elsewhere. The return by the fiduciary is to be made only when the income for the beneficiary exceeds \$3,000, and in this and other things it is subject to the same regulations as individual returns, though made on a different form. (T. D. 2090, "Fiduciaries.") Treasury Regulations, 70-75. See Withholding, ¶32. Where a fiduciary or guardian acts only for one person, the return is made for the person by the fiduciary as any personal return. Fiduciaries acting for more than one person must report to the collector for all of them, and also make a return for each one whose income exceeds \$3,000. (T. D. 1943, 1947, 1961, 2231.) See ¶53 for Forms. Depreciation for Fiduciaries, T. D. 2267.

¶34. *Foreign Corporations.* The normal tax of 1 per cent must be paid by foreign corporations the same as if they were domestic corporations, though they are required to pay the tax only on that portion of their income accruing from business done in the United States. (St. E.) If such corporation has more than one branch office in the United States it must designate to the Department the office and the person who is authorized to make the return of the income. (T. R. 83.) The allowable deduction for taxes paid is for taxes paid in the United States only, and other deductions are likewise limited. For foreign corporations, as for domestic corporations, there is no allowable deduction for debts proven worthless, as in the case of individuals. Foreign corporations, with respect to their business in the United States, are treated exactly on a basis with domestic corporations. (¶15.) Form of return, T. R. 163. Foreign corporation bonds, T. D. 1992. Foreign corporations subject to tax, T. D. 2161, page 2.

¶35. *Americans Residing Abroad.* The Income tax is levied upon "every citizen of the United States, whether residing at home or abroad, and every person residing in the United States, though not a citizen thereof." (St. A.) For a foreigner residing abroad the income is based on his property in the United States. (¶45.) The citizen residing abroad may make his own return of income, or it may be

made for him in his own collection district by any one who will swear that he is sufficiently acquainted with his business to make it and authorized to do so. (St. E.) There is no difference otherwise in estimating the tax of the citizen abroad from the methods used if he were at home. (T. R. 15-17.) Forms for Returns, ¶53. Nonresident aliens, ¶45. Time and place for making returns, ¶37. Who must make returns, ¶17.

¶36. *Partnerships.* A partnership is not required to make return of income, except when specially requested to do so by the Collector of Internal Revenue for the district in which it is located. (St. D.) When this is requested the partnership must make a correct and complete statement of gross income, actual expenses, net profit, and the names and addresses of all persons who are partners, with their respective proportional interests in the net profits. (T. R. 12.) The net profits if divided to the partners during the year are to be returned as income by the individuals. If not divided they are to be returned also by the individuals as if they had been divided and distributed; but later, when the distribution is made, it shall not be required that the amount be again returned. (T. R. 11-12.) The net profits must be returned by the partners in their individual returns, whether they are apportioned out to them from the partnership treasury or not. (T. R. 94.) As a partnership is not taxable on its income, the "withholding" provision (¶32) does not apply, and the tax on income due to a partnership cannot be withheld by any one. (T. D. 1957.) Partnerships owning bonds, mortgages, etc., shall file certificates of ownership of such so that the normal tax on them will not be withheld. Foreign Partnerships, T. R. 48-49. Forms for returns, ¶53. Undivided profits, ¶39.

¶37. *Time and Place for Making Returns.* All individuals are required to make the return of their income on or before March of each year, the income to be that of the previous calendar year ending December 31. (St. D.) Corporations are required to make returns at the same time unless

they apply to the Collector for special permission to make return for their own fiscal year, ending at some other time than with the calendar year, and, in such cases, they make the return within sixty days after the end of the fiscal year. (T. D. 2029.) (According to the report of the commissioner not more than 20 per cent of the corporations ask for this special permission, the others preferring to make their fiscal year correspond to the calendar year.) Both individuals and corporations make their returns to the Collector of that district in which is located their principal place of business. (T. R. 15; St. D.; T. D. 2090.) The taxpayer is notified on or before June 1 of the amount of tax due, and it is to be paid on or before June 30. (T. R. 25 and 197.) For unavoidable causes, special permission may be obtained from the Collector for delay not exceeding thirty days in making the return, but the permission must be requested in advance of the time for return. (T. R. 23 and 173.) The return is due to be made on or before March 1; the taxpayer is notified of the amount of his tax on or before June 1, and the amount must be paid on or before June 30. Who must make returns, ¶17. Time for returns and penalties, T. D. 1950. Penalties, ¶40.

¶38. *Banks.* All National and State and private incorporated banks, trust companies, etc., operated for private gain of the stockholders, are subject to all the provisions of the Income Tax law as to corporations. (¶15.) The one exception is a mutual savings bank not having a capital stock represented by shares, which, though called a bank, is in reality merely an association for the benefit of all concerned and not for the gain of any special persons. (St. G a). Gross income of banks consists of the total revenue derived from the operation of the business, including income, gains, or profits from all other sources, as shown by the entries on the books for the year for which the return is made. A bank, as any other corporation, may make the return either for the calendar year or for its own fiscal year (¶37.) Interest paid by a bank to the depositors is deductible under allowance

for interest, but the total amount on which such interest is paid cannot exceed the amount of the capital stock plus one-half the outstanding interest-bearing indebtedness. (¶22.) A bank is a withholding agent and is bound by the requirements for withholding at the source. (¶32.) A bank, however, does not withhold tax or interest paid on deposits. (T. R. 67.) See Treasury Regulations 38, 39, 43 and 46. Undivided profits or surplus accruing in any year for which the return is made must be included as a part of the income of the bank on which tax must be paid. (See paragraphs 15 and 36.) Taxes assessed against shareholders are due to be paid by the holders, and, if paid by the bank, cannot be deducted as expense. (T. R. 154, ¶21.) Withholding certificates, T. D. 1986 and 2258.

¶39. *Surplus and Undivided Profits.* Section A of the Statute provides that the taxable income of any individual shall include the share to which he would be entitled in any surplus or undivided profits, whether divided or distributed or not, in any corporation, partnership or other association. Even if the company is a mere holding company the same rule holds. When requested by the Commissioner of Internal Revenue or any District Collector, such company must make a report of all such profits or surplus, with the names of the individuals who would be entitled to the same if distributed. If the gains and profits shall be allowed to accumulate and become surplus, it shall be *prima facie* evidence of a fraudulent purpose to evade the tax, but such surplus shall not be construed as evidence of fraud unless the Secretary of the Treasury shall certify that in his opinion such accumulation is unreasonable for the purpose of the business. (Statute, section A.) See Partnerships, ¶36.

¶40. *Penalties and Fines.* The final day of payment is June 30, and to any taxes remaining unpaid after that date and for ten days after notice and demand from the Collector, there shall be added the sum of 5 per centum on the amount of unpaid tax and interest at the rate of 1 per centum a month from the time the tax became due. (St. G c.) A corporation

refusing or neglecting to make a return shall have added 50 per centum to the amount of tax, or for a false or fraudulent return, 100 per cent (St. I), besides being liable to a specific penalty not exceeding \$10,000. (St. G d.) Any person or any officer of a corporation required to make a return, who shall therein make any false or fraudulent statement with intent to evade the tax, shall be guilty of a misdemeanor and be liable to a fine of \$2,000 and to imprisonment for one year. (T. R. 164.) Any person divulging unlawfully any information whatever disclosed by a return shall be subject to a fine of \$1,000 and to imprisonment for one year. (St. I.) For making a false statement for the purpose of obtaining any reduction or exemption, the person shall be liable to a penalty of \$300. (St. E.) The statute of limitations in enforcing collection of income tax is three years. (T. R. 177.) Any person, corporation or association liable to make return and not making it in due time shall be liable to a penalty of not less than \$20 and not more than \$1,000. (T. R. 164.) As every return must be made under oath, any willful misstatement contained in it is a violation of law. A fine not exceeding \$5,000 and imprisonment for a year may be imposed on any person or corporation undertaking for profit to collect interest from coupons, checks and bills of exchange from foreign countries, without first having obtained a license for such purpose from the Commissioner of Internal Revenue. (Section 3 of the Statute.) Failure to make a return in due time by an individual who is required to make it (¶17) incurs a penalty of not less than \$20 nor more than \$1,000. (See Protests, ¶54, and Compromises, T. D. 2015.)

¶41. *Inspection of Returns.* It is unlawful for any official or other person to divulge any information from the returns of income, except as specifically allowed as herein noted. (Statute I.) The returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President. The proper officers of any State imposing a general income tax may, upon the request of the

Governor thereof, have access to the returns or an abstract of them. (T. R. 178.) (Section G, subsection d, of the Statute.) (T. D. 1962 and 2016.)

¶42. *Powers of the Collectors.* Section 3172 of the Revised Statutes provides that every Collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal revenue tax. The latter part of section D of the Statute provides that if the Collector or Deputy Collector has reason to believe that the amount of any income is understated he shall give due notice to the lister to show cause why it should not be increased. If the return shall not be made as required by law, the Collector shall cause it to be made by summoning the person or others having charge of the books and accounts, and require them to produce the accounts and to answer any questions concerning said income. From any decision of the Collector the taxpayer may appeal to the Commissioner of Internal Revenue. See Treasury Regulations, Articles 20 and 21, and section I of the Statute. Corporation Bookkeeping, ¶57. On order of the Commissioner of Internal Revenue the books of a corporation are to be open to inspection. (T. R. 186.)

¶43. *Insurance Companies.* A different form of return is required for insurance companies, though, except in a few details, they are essentially the same in requirements as for other corporations. (St. G c.) Deductions allowable for insurance companies are expenses (¶21), losses (¶24), interest (¶22), taxes (¶23), and the two following. Fifth is "the net addition, if any, required by law to be made within the year to reserve funds." (T. R. 147.) Sixth is "sums other than dividends paid within the year on policy and annuity contracts." (See Article 100 of Treasury Regulations.) Mutual fire insurance companies shall not return as income any portion of premium deposits returned to policyholders, but shall return all income from other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and

reinsurance reserves. (T. R. 98-100.) Mutual marine insurance companies may deduct from gross income the amount repaid to policyholders on account of premiums previously paid. (T. R. 99.) Life Insurance, ¶30. Corporations, ¶15. Penalties, ¶40.

¶44. *Assessment.* Section E of the Statute says that "all assessments shall be made by the Commissioner of Internal Revenue, and all persons shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year." In the case of corporations whose fiscal years end at other times than December 31, the assessment is made within three months from the time of making the return. (¶37.) It is the duty of the Collector of Internal Revenue for the district to have all returns made according to the requirements. When this is accomplished, the returns are forwarded to the Commissioner in Washington, and the assessments of tax are made by him. (T. R. 195.) The list of tax to be collected is then sent to the Collector, and it is then his duty to collect it. (T. R. 197.) (Protests, ¶54.)

¶45. *Nonresident Aliens.* Persons owning property in the United States, and who are neither citizens nor residents of the United States, are subject to the Income Tax in so far as it affects the income from such property in the United States. (T. R. 8.) Such nonresident alien is allowed all the deductions in section B of the act, 1 to 8, inclusive. (T. R. 6.) The exemption of \$3,000, however, is not allowed, but the tax must be paid on all the income in the United States, and the tax includes the normal tax and the additional tax, as discussed in paragraph 16. (T. D. 2109.) The persons in charge of the property shall make the return and pay the tax. (T. R. 8.) "Residence" of aliens defined, T. D. 2242. As to exemption on dividends (¶49), see T. D. 2012. U. S. banks as agents for aliens, T. D. 1988. Alien does not pay tax on income derived wholly in foreign country for services, etc. (T. D. 2152.)

¶46. "*Accrued Income*" Defined. The first sentence of the Statute says that the tax shall be levied and paid annually "upon the entire net income arising or accruing from all sources during the preceding calendar year." Section G(a) of the Statute likewise imposes the normal tax for corporations on the income "arising or accruing." Section G(c) says that "the tax herein imposed shall be computed upon the entire net income accrued within each preceding calendar year." ("Calendar year," wherever used in this connection, is subject to the provision that any corporation may substitute its own fiscal year as stated in ¶37.) This word, "accruing" or "accrued," has caused misunderstanding in view of the fact that the excise corporation tax of 1909 (¶11) imposed the tax on "income received." This presents the question as to whether or not the tax under the present Statute is to be paid on the income that was actually received during the year, or that accrued and was therefore due to be received. The distinction and meaning can probably be made clear by the requirement as to partnerships. (¶36.) A partner must return the income which has "accrued" to him in the profits of the partnership, whether or not the "accrued" profits have been actually distributed to him and the others. It has been said that uncertain income which "may never be received" cannot be included as income. (*Life Ins. Co. v. Herold*, 198 Fed. 199.) Therefore it may be held as certain that taxable income does not include uncertainties, but only the "accrued" income, such as interest or dividends or profits due and unpaid, but collectible. Even if such should later not be collected, they would be deducted for that year and thus the balance made. See ¶25 and ¶47, and T. D. 2090, page 13.

¶47. *Professional Fees*. The first sentence of section B of the Statute prescribes that "net income of a taxable person shall include that derived from professions, vocations, businesses." Instructions on the form for individual returns provided by the Treasury Department prescribe: "Persons receiving fees or emoluments for professional or other services should include all actual receipts for the services ren-

dered in the year for which return is made, together with all unpaid accounts, charges for services, or contingent income due for that year, if good and collectible." This requirement concerning "unpaid accounts" has been misunderstood, but in connection with the last words of the instruction, "if good and collectible," ought to be plain enough. It leaves the provision practically as "accrued income." (¶46.) The taxpayer is left as the judge as to whether or not the "unpaid accounts" are "collectible." If he should make a mistake about it either way, it will be corrected in subsequent years. If the amount should be returned as income and later charged off the books as uncollectible, it would be deductible for such latter year. (¶25.) On the other hand, if certain unpaid accounts should be considered worthless and not be included as income, and later should be collected, they would have to be included as income for the year in which they were collected. It might be more simple to regulate it as in Wisconsin, where, under the State law, professional fees are included "when collected"; but as the taxpayer is the judge, the difference is slight. Fees that are irregular or uncertain are not subject to withholding, ¶32. Salaries (¶31) paid to professional men are subject to withholding.

¶48. *Rents.* Another of the specific sources of taxable income is rents. (St. B.) This includes the receipts from all property used by another and for which use a certain amount is paid. It makes no difference in what form the rent is paid, whether in services, produce, or otherwise. Where land was leased and the lessee erected a building which at the end of a term of years was to go to the owner of the land, the cost of the building was held as rent for the number of years. (T. R. 115.) Any agent entrusted with the collection of rents shall withhold the normal tax on the amount after it exceeds \$3,000. (¶32.) (Interest paid by corporations as rent, T. R. 148.) See T. D. 2090, pages 16 and 23, and T. D. 2135, page 6.

¶49. *Dividends.* The income from dividends is a specifically named source of taxable income. (St. B.) The Statute

requires that the income from all dividends shall be included in the returns, but that in computing the normal tax for an individual there shall be excluded the amount received as dividends from stock or net earnings of a corporation which is taxable upon its net earnings. A corporation must pay the tax on income from another corporation. (T. D. 2090, page 20, and T. D. 2137, page 6.) This exemption applies only to the normal tax, which on that income is paid by the corporation. For the additional tax (that on income exceeding \$20,000) the individual must pay on income from dividends from a corporation which pays the normal tax. A corporation pays the "normal tax" of 1 per cent on all income, and the shareholders pay the "additional" tax on their respective proportions of the income. As to dividends of aliens from domestic corporations see T. D. 2162. See Statute, sections B and G, and Treasury Regulations, Articles 6, 97, and 107, and T. D. 1945. A withholding agent (¶32) does not withhold tax on income accruing to an individual from dividends on stock on which the normal tax has been paid, as in such case the individual is not liable for such tax. (Treasury Regulation 6, subsection 7; and ¶20.) Aliens regarding dividends, T. D. 2017. See full details, T. D. 2274.

¶50. *Income from Sales of Property.* The Statute specifically taxes the income from "sales, or dealings in property, whether real or personal. (St. B.) This does not mean that the total amount received by an owner of property in selling it is to be returned as income for that year, but only the profit made on the sale. The same rule applies to all kinds of property, real estate, products, stocks, bonds, and securities. If property is sold which was bought many years previously the profit is to be prorated, and only the portions of such profit that have accrued since March 1, 1913, for individuals, and since January 1, 1909, for corporations, are to be included as income. It is governed by the same rule if the transaction is a part of regular business or merely an individual act. Profits so made by regular real estate dealers or other persons acting as agents for the real owners in the

sale of real estate or securities are to be returned by the dealer on his own part of the profit, and by the owner on his share of it. For income tax purposes, where there is an actual transfer of the property, the profit will be counted as of that year, even though the payments are to be made in installments. See Treasury Department Ruling No. 2090, under head of "Profit From Sale of Real Estate," and T. D. 2137, page 8.

¶51. *Income from Farming.* Any farmer whose net income exceeds \$3,000 from all sources must list the return of his income. These regulations apply to plantations, ranches, stock farms, dairies, fruit and truck farms, and all land used for similar purposes. The return must include every item of income from all sources, sales of stock and products, and any other profits from dealing in farm products. The income is to be calculated for the year in which the products were actually marketed and sold. Rents received in crop-shares shall be included as income for the year in which the crop-shares were reduced to a money equivalent. Deductions and exemptions for expenses, wear and tear, etc., are allowable as explained in paragraphs 21 to 29 inclusive. Machinery cannot be included as expense, as it is an addition to the capital, but the renewal of furnishings and implements and the cost of ordinary working tools are a part of the expense. Money expended for stock for breeding purposes is an addition to capital and not allowable as a deduction for expense; but money expended for stock for temporary trading purposes and intended for resale is an allowable expense. Personal and family expenses are not deductible expenses, but are part of the taxable income. Allowance for "wear and tear" (¶26) is deductible for depreciation in value of farm buildings, machinery and stock, but not for the personal dwelling of the owner. A person operating a farm for recreation and pleasure and whose expense therefrom exceeds the income need not report the income, and the actual net expense is personal, and therefore not allowable as a deduction. See Treasury Department Ruling No. 2153, and ¶13.

¶52. Husband and Wife, Joint Income. Section C of the Statute contains the "specific exemption" of \$3,000 of net income for a single person, or \$4,000 if married and living with his wife, or, if a woman, living with her husband. When they are separated and in no way dependent one on the other they are each entitled to all the exemptions, and each must list the income regardless of the other. When living together they both together are entitled to one exemption of \$4,000. (¶58.) If each has a separate income the income of both may be made on one return with the amount of the income of each and the full name and address of each. The husband is presumed by the law to know of his wife's income and to include the amount of it in his own return unless otherwise stated. If the aggregate net income of both of them together is in excess of \$3,000 they are required to make the return, though the tax is assessed only on the excess over \$4,000. The single or married status of the person claiming the "specific" exemption shall be as of the time of claiming the exemption if the claim is made during the taxable calendar year, and if the claim is not made during the year then it is taken as of the status on the last day of the calendar year. See Treasury Regulations, Articles 9 and 10. Time and place for returns, ¶37. The joint return applies only to the normal tax. The additional tax must be based on separate returns. (T. D. 2090, "Husband.") When living apart only \$3,000 is allowed as exemption, T. D. 2135, page 4. Wife's income included as husband's, T. D. 2135, page 4.

¶53. Forms for Returns. Different kinds of blank forms are required. For an individual or for a fiduciary or other agent who makes the return for an individual, Form 1040, revised, is used. For a corporation other than an insurance company it is Form 1031. Insurance companies use Form 1030. Fiduciaries or other agents serving in such capacity of trust for a number of persons are required to make the return for each on Form 1040, and another return for all together on Form 1041. (¶33.) Withholding agents use Form 1042 (¶32), and partnerships 1065. (¶36.) Every person

or corporation liable for the tax, whose name is already listed with the Collector of the district, will be supplied with the necessary form; but the responsibility is the taxpayer's, and it is his duty to apply for the form if it is not sent to him. (¶40.) In all cases the application for the blank form or the return itself shall be made to the Collector of the district in which is located the taxpayer's principal place of business. (¶37.) Each return contains four general divisions: all income listed from each specific source; items of deduction claimed under section B of the Statute; amount of specific exemption, if any, claimed under section C of the Statute; and all items of income upon which tax has been withheld at the source. See Treasury Regulations 15, 16 and 17, and forms in last part of this book. Forms for withholding, T. D. 1973 and 1976; foreign agents, T. D. 1977; banks withholding, T. D. 1986 and T. D. 2258; nonresident aliens, T. D. 1988.

¶54. *Protests of Taxpayer.* All allowances for deductions and exemptions must be asked for by the taxpayer, and in case of a person whose return is made by a withholding agent or another, such person must file either with the Collector or the agent a written demand for the exemptions thirty days before the return is due to be made. (T. R. 41, 42, 60.) If such demand should not be made in due time, or in case of any taxes which were paid and not legally due, the recourse is an appeal to the Commissioner of Internal Revenue, in accordance with section 3220 of the Revised Statutes. A protest against assessment can be made before collection of the tax in the same way. The Commissioner of Internal Revenue is authorized to refund "all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount or in any manner wrongfully collected," and to pay to any collector or deputy the amount recovered against him in any suit brought against him for anything done in performance of his official duty. The Commissioner apparently has full discretion, except that with re-

gard to penalties incurred he cannot remit them if they were assessed and collected according to the law. (Revised Statutes, section 3220, and T. D. herein 2015.) Section 3224 of the Revised Statutes of the United States prescribes that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court." This means, of course, that an injunction against a Collector of Internal Revenue is not possible. Tax illegally withheld is to be returned. T. D. 2131. The procedure for any wrong done to the taxpayer is by appealing first to the Commissioner, and after that, but not before, suit can be brought in the Federal court for the recovery of the alleged illegal tax that was collected. (R. S. 3226.) Both the appeal to the Commissioner and the suit are limited to two years from the date the cause of action accrued. (R. S. 3226 and 3227.) The legal limit for collecting tax is three years after the return was due to be made. (St. E.) Penalties, ¶40. Assessment, ¶44.

¶55. *License for Foreign Collections.* This provision applies to the collection of coupons, checks, bills of exchange, etc., representing interest due by bonds, mortgages and other obligations issued in foreign countries, and the real source of payment of which is in a foreign country. It applies to any "handling" of the coupons, etc., for profit, by way of purchase, sale or collection or otherwise. All persons, firms or corporations undertaking the collection of such income for profit are required by law to obtain a license from the Commissioner of Internal Revenue. Application for the license will be made to the Collector for the district in which the applicant has his place of business. The Collector will issue the license without charge, and it will continue in force until revoked or canceled. If the Collector is not satisfied as to the entire responsibility of the applicant, he may require a bond with sureties equal to the estimated amount of tax due to be withheld by the applicant during one year. The person so licensed will make regular reports to the Collector of all items collected by him in such business. Failure to obtain

a license or to comply with the regulations is punishable by a fine not exceeding \$5,000 or imprisonment not exceeding one year, or both. See Statute, section E, Treasury Regulations 54 to 62, and T. D. 2023, amending T. R. 58. See also T. D. 2090, "Income."

¶56. *Patents and Patent Rights.* The income from the use of a patented article or from the rentals from rights therein is a part of the gross income, and is taxable. The allowance for depreciation (¶26) of the value of a patent is one-seventeenth of its cost for each year, as the term is seventeen years. (T. R. 137.) If the patent was purchased from the originator, then the cost represented is the amount of the purchase. If it remains in the hands of the original owner the cost is the amount of the fees, expenses, etc., in securing the patent from the Government. Each year one-seventeenth of its value as capital is gone, and that part is allowed as a deduction.

¶57. *Corporation Bookkeeping.* By Treasury Regulations 161, 182, and 183, it is provided that corporations, in order to estimate their income, must necessarily take an annual inventory or its equivalent. A complete physical inventory is desired, but where it is not possible an equivalent inventory will be accepted. An equivalent inventory is an inventory of materials, supplies, and merchandise on hand, taken from the books of the corporation. No particular system of bookkeeping is required, but some system is necessary by which the return of income can be verified. The annual balance sheet or report to stockholders should show the same amount of net profits as that reported as net income in the return of the income. The books of a corporation shall be open to inspection on order of the Commissioner of Internal Revenue. (T. R. 186.) The books are assumed to show the facts as to income. (T. R. 183.) Corporations, ¶15. Powers of Collectors, ¶42.

¶58. *Individual Exemption.* Section C of the Statute prescribes the "specific" exemption for individuals. This specific exemption is \$3,000 for an unmarried person, or

\$4,000 for a married person. The \$4,000 exemption applies to a married person only while living with husband or wife; and if both have incomes, only one exemption is allowed. (¶52.) This specific exemption applies only to persons. A corporation must pay the tax on all of its net income. The exemption is from the "net" income. (¶20.) This means that after determining the net income this part of it is not subject to tax. The allowance of this exemption is supposedly for necessary living expenses, and, consequently, there is no other allowance for personal or family expenses, but the cost of such is to be included as part of the income. (¶21.) No person is required to make a return of his income unless the "net" income exceeds \$3,000. (Statute, section D.) The individual is left to determine whether or not his net income does amount to that much, but in case of doubt the Collector may require him to make the return. Even when the return is made, the person, if married, does not pay any tax unless the net income amounts to \$4,000. See Treasury Regulations, Articles 9 and 10. When a person's tax is paid by a fiduciary (¶33) or withholding agent (¶32), written demand for the specific exemption must be made thirty days before March 1, to either the agent or the Collector. An American woman who marries a foreigner takes the nationality of her husband and cannot claim the exemption. (T. D. 2090, "Citizenship.")

PART II

THE COMPLETE STATUTE LAW

For detailed references see General Index.

The Statute, when referred to in cross references, is abbreviated as "St." It is given in the following pages without accompanying comment, as the reader, for explanation of any part of it, is expected to refer to the Index or Analysis. Practically every sentence in the Statute is covered in the 58 paragraphs of the Analysis, and for convenience the lettered sections of the Statute with reference to the parallel paragraph of the Analysis (abbreviated as A) are here given:

- St. A. Levying tax, A 16.
- St. B. Deductions, A 18-27.
- St. C. \$3,000 exemption, A 58.
- St. D. Returns, A 17, 37.
- St. E. Assessment, withholding, A 44, 32.
- St. F. Penalties, A 40.
- St. G. Corporation Tax, A 15.
- St. H. "State" construed.
- St. I. Collection Laws, A 40, 41, 42, 54.
- St. J. Receipts.
- St. K. Jurisdiction of Courts.
- St. L. Laws made applicable.
- St. M. Philippines, Porto Rico.
- St. S. Excise Tax, A 11.

INCOME TAX LAW

[Section 2, Act October 3, 1913]

A

Normal Tax, How Levied.

Subdivision 1. That there shall be levied, assessed, collected and paid annually upon the entire net income arising or accruing from all sources in the preceding calendar year to every citizen of the United States, whether residing at home or abroad, and to every person residing in the United States, though not a citizen thereof, a tax of 1 per centum per annum upon such income, except as hereinafter provided; and a like tax shall be assessed, levied, collected, and paid annually upon the entire net income from all property owned and of every business, trade, or profession carried on in the United States by persons residing elsewhere.

Additional Tax on Net Incomes in Excess of \$20,000.

Subdivision 2. In addition to the income tax provided under this section (herein referred to as the normal income tax) there shall be levied, assessed, and collected upon the net income of every individual an additional income tax (herein referred to as the additional tax) of 1 per centum per annum upon the amount by which the total net income exceeds \$20,000 and does not exceed \$50,000, and 2 per centum per annum upon the amount by which the total net income exceeds \$50,000 and does not exceed \$75,000, 3 per centum per annum upon the amount by which the total net income exceeds \$75,000 and does not exceed \$100,000, 4 per centum per annum upon the amount by which the total net income exceeds \$100,000 and does not exceed \$250,000, 5 per centum per annum upon the amount by which the total net income exceeds \$250,000 and does not exceed \$500,000, and 6 per centum per annum upon the amount by which the total net income exceeds \$500,000. All the provisions of this section relating to individuals who are chargeable

with the normal income tax, so far as they are applicable and are not inconsistent with this subdivision of paragraph A, shall apply to the levy, assessment, and collection of the additional tax imposed under this section.

Personal Return of Net Income to be Made Annually.

Every person subject to this additional tax shall, for the purpose of its assessment and collection, make a personal return of his total net income from all sources, corporate or otherwise, for the preceding calendar year, under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

Interest in Gains and Profits of Corporations to be Included.

For the purpose of this additional tax the taxable income of any individual shall embrace the share to which he would be entitled of the gains and profits, if divided or distributed, whether divided or distributed or not, of all corporations, joint-stock companies, or associations, however created or organized, formed or fraudulently availed of for the purpose of preventing the imposition of such tax through the medium of permitting such gains and profits to accumulate instead of being divided or distributed; and the fact that any such corporation, joint-stock company, or association is a mere holding company, or that the gains and profits are permitted to accumulate beyond the reasonable needs of the business shall be *prima facie* evidence of a fraudulent purpose to escape such tax; but the fact that the gains and profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of a purpose to escape the said tax in such case unless the Secretary of the Treasury shall certify that in his opinion such accumulation is unreasonable for the purposes of the business. When requested by the Commissioner of Internal Revenue, or any district collector of internal revenue, such corporation, joint-stock company, or association shall forward to him a correct statement of such profits and the names of the individuals who would be entitled to the same if distributed.

B*Net Income, Items Constituting Same.*

That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, businesses, trade, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any lawful business carried on for gain or profit, or gains or profits, and income derived from any source whatever, including the income from but not the value of property acquired by gift, bequest, devise, or descent: *Provided*, That the proceeds of life insurance policies paid upon the death of the person insured or payments made by or credited to the insured, on life insurance, endowment, or annuity contracts, upon the return thereof to the insured at the maturity of the term mentioned in the contract, or upon surrender of contract, shall not be included as income.

Deductions Allowed in Computing Net Income for the Purpose of the Normal Tax.

That in computing net income for the purpose of the normal tax there shall be allowed as deductions: First, the necessary expenses actually paid in carrying on any business, not including personal, living, or family expenses; second, all interest paid within the year by a taxable person on indebtedness; third, all National, State, county, school, and municipal taxes paid within the year, not including those assessed against local benefits; fourth, losses actually sustained during the year, incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise; fifth, debts due to the taxpayer actually ascertained to be worthless and charged off within the year; sixth, a reasonable allowance for the exhaustion, wear and

tear of property arising out of its use or employment in the business, not to exceed, in the case of mines, 5 per centum of the gross value at the mine of the output for the year for which the computation is made, but no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made: *Provided*, That no deductions shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate; seventh, the amount received as dividends upon the stock or from the net earnings of any corporation, joint-stock company, association, or insurance company which is taxable upon its net income as hereinafter provided; eighth, the amount of income, the tax upon which has been paid or withheld for payment at the source of the income, under the provisions of this section, provided that whenever the tax upon the income of a person is required to be withheld and paid at the source as hereinafter required, if such annual income does not exceed the sum of \$3,000 or is not fixed or certain, or is indefinite or irregular as to amount or time of accrual, the same shall not be deducted in the personal return of such person.

Net Income of Nonresidents, from Property Owned in the United States.

The net income from property owned and business carried on in the United States by persons residing elsewhere shall be computed upon the basis prescribed in this paragraph and that part of paragraph G of this section relating to the computation of the net income of corporations, joint-stock and insurance companies, organized, created, or existing under the laws of foreign countries, in so far as applicable.

Interest on Obligations of State or of United States and Compensation of Certain United States Officers Exempt from Tax.

That in computing net income under this section there shall be excluded the interest upon the obligations of a State

or any political subdivision thereof, and upon the obligations of the United States or its possessions; also the compensation of the present President of the United States during the term for which he has been elected, and of the judges of the supreme and inferior courts of the United States now in office, and the compensation of all officers and employees of a State or any political subdivision thereof except when such compensation is paid by the United States Government.

C

Deduction of \$3,000 Allowed Each Single Person and \$1,000 Additional for Married Man and Wife Living Together.

That there shall be deducted from the amount of the net income of each of said persons, ascertained as provided herein, the sum of \$3,000, plus \$1,000 additional if the person making the return be a married man with a wife living with him, or plus the sum of \$1,000 additional if the person making the return be a married woman with a husband living with her; but in no event shall this additional exemption of \$1,000 be deducted by both a husband and a wife: *Provided*, That only one deduction of \$4,000 shall be made from the aggregate income of both husband and wife when living together.

D

Period for Which Tax is to be Computed.

The said tax shall be computed upon the remainder of said net income of each person subject thereto, accruing during each preceding calendar year ending December thirty-first: *Provided, however*, That for the year ending December thirty-first, nineteen hundred and thirteen, said tax shall be computed on the net income accruing from March first to December thirty-first, nineteen hundred and thirteen, both dates inclusive, after deducting five-sixths only of the specific exemptions and deductions herein provided for.

*Return to be Made Under Oath by Each Person Having
a Net Income of \$3,000 or Over.*

On or before the first day of March, nineteen hundred and fourteen, and the first day of March in each year thereafter, a true and accurate return, under oath or affirmation, shall be made by each person of lawful age, except as herein-after provided, subject to the tax imposed by this section, and having a net income of \$3,000 or over for the taxable year, to the Collector of Internal Revenue for the district in which such person resides or has his principal place of business, or, in the case of a person residing in a foreign country, in the place where his principal business is carried on within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth specifically the gross amount of income from all separate sources, and from the total thereof deducting the aggregate items or expenses and allowance herein authorized.

*Guardians, Trustees, etc., to Make Return for Persons
for Whom They Act.*

Guardians, trustees, executors, administrators, agents, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity, shall make and render a return of the net income of the person for whom they act, subject to this tax, coming into their custody or control and management, and be subject to all the provisions of this section which apply to individuals: *Provided*, That a return made by one of two or more joint guardians, trustees, executors, administrators, agents, receivers, and conservators, or other persons acting in a fiduciary capacity, filed in the district where such person resides, or in the district where the will or other instrument under which he acts is recorded, under such regulations as the Secretary of the Treasury may prescribe, shall be a sufficient compliance with the requirements of this paragraph.

Persons, Firms, etc., Having Control of Determinable Income Payable to Others.

And also all persons, firms, companies, copartnerships, corporations, joint-stock companies or associations, and insurance companies, except as hereinafter provided, in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodical gains, profits, and income of another person subject to tax, shall in behalf of such person deduct and withhold from the payment an amount equivalent to the normal income tax upon the same and make and render a return, as aforesaid, but separate and distinct, of the portion of the income of each person from which the normal tax has been thus withheld, and containing also the name and address of such person or stating that the name and address or the address, as the case may be, are unknown: *Provided*, That the provision requiring the normal tax of individuals to be withheld at the source of the income shall not be construed to require any of such tax to be withheld prior to the first day of November, nineteen hundred and thirteen.

No Return Required Unless Income Exceeds \$3,000.

Provided further, That in either case above mentioned no return of income not exceeding \$3,000 shall be required.

Interest in Partnership Profits to be Included in Return.

Provided further, That any persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of a partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid, under the provisions of this section, and any such firm, when requested by the Commissioner of Internal Revenue, or any district collector, shall forward to him a correct statement of such profits and the names of the individuals who would be entitled to the same, if distributed.

Dividends on Stock, When to be Excluded from Return.

Provided further, That persons liable for the normal income tax only, on their own account or in behalf of another, shall not be required to make return of the income derived from dividends on the capital stock or from the net earnings of corporations, joint-stock companies or associations, and insurance companies taxable upon their net income as hereinafter provided. Any person for whom return has been made and the tax paid, or to be paid as aforesaid, shall not be required to make a return unless such person has other net income, but only one deduction of \$3,000 shall be made in the case of any such person.

Returns to be Verified by Oath, and Amended Returns May be Required by Collector.

The collector or deputy collector shall require every list to be verified by the oath or affirmation of the party rendering it. If the collector or deputy collector have reason to believe that the amount of any income returned is understated, he shall give due notice to the person making the return to show cause why the amount of the return should not be increased, and upon proof of the amount understated may increase the same accordingly.

Appeals from Decision of Collector.

If dissatisfied with the decision of the collector, such person may submit the case, with all the papers, to the Commissioner of Internal Revenue for his decision, and may furnish sworn testimony of witnesses to prove any relevant facts.

E

Assessments, Notice, and Payments of.

That all assessments shall be made by the Commissioner of Internal Revenue and all persons shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessments shall be paid on or before the thirtieth day of June,

except in cases of refusal or neglect to make such return and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as provided for in this section or by existing law, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such person or persons immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the thirtieth day of June in any year, and for ten days after notice and demand thereof by the collector, there shall be added the sum of 5 per centum on the amount of tax unpaid, and interest at the rate of 1 per centum per month upon said tax from the time the same became due, except from the estates of insane, deceased, or insolvent persons.

Persons, Firms, etc., Withholding Normal Tax on Behalf of Others.

All persons, firms, copartnerships, companies, corporations, joint-stock companies or associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, agents, receivers, conservators, employers, and all officers and employees of the United States having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual gains, profits, and income of another person, exceeding \$3,000 for any taxable year, other than dividends on capital stock, or from the net earnings of corporations and joint-stock companies or associations subject to like tax, who are required to make and render a return in behalf of another, as provided herein, to the collector of his, her, or its district, are hereby authorized and required to deduct and withhold from such annual gains, profits, and income such sum as will be sufficient to pay the normal tax imposed thereon by this section,

and shall pay to the officer of the United States Government authorized to receive the same; and they are each hereby made personally liable for such tax.

Notice Must be Filed in Advance for Claims for Exemption Under Paragraph C.

In all cases where the income tax of a person is withheld and deducted and paid or to be paid at the source, as aforesaid, such person shall not receive the benefit of the deduction and exemption allowed in paragraph C of this section except by an application for refund of the tax unless he shall, not less than thirty days prior to the day on which the return of his income is due, file with the person who is required to withhold and pay tax for him, a signed notice in writing claiming the benefit of such exemption, and thereupon no tax shall be withheld upon the amount of such exemption.

Penalty for Filing False Claim.

Provided, That if any person for the purpose of obtaining any allowance or reduction by virtue of a claim for such exemption, either for himself or for any other person, knowingly makes any false statement or false or fraudulent representation, he shall be liable to a penalty of \$300.

Notice Must be Filed in Advance for Claim for Deduction.

Nor shall any person under the foregoing conditions be allowed the benefit of any deduction provided for in subsection B of this section unless he shall, not less than thirty days prior to the day on which the return of his income is due, either file with the person who is required to withhold and pay tax for him a true and correct return of his annual gains, profits, and income from all other sources, and also the deductions asked for, and the showing thus made shall then become a part of the return to be made in his behalf by the person required to withhold and pay the tax, or likewise make application for deductions to the collector of the district in which return is made or to be made for him.

Returns for Minors, Insane Persons, etc., by Whom Made.

Provided further, That if such person is a minor or an insane person, or is absent from the United States, or is unable owing to serious illness to make the return and application above provided for, the return and application may be made for him or her by the person required to withhold and pay the tax, he making oath under the penalties of this Act that he has sufficient knowledge of the affairs and property of his beneficiary to enable him to make a full and complete return for him or her, and that the return and application made by him are full and complete.

Normal Tax to be Deducted and Withheld at Source of Income from Bonds, etc., of Corporations.

Provided further, That the amount of the normal tax hereinbefore imposed shall be deducted and withheld from fixed and determinable annual gains, profits, and income derived from interest upon bonds and mortgages, or deeds of trust or other similar obligations of corporations, joint-stock companies or associations, and insurance companies, whether payable annually or at shorter or longer periods, although such interest does not amount to \$3,000, subject to the provisions of this section requiring the tax to be withheld at the source and deducted from annual income and paid to the Government.

Dividends on Stocks, or Interest on Foreign Bonds, Mortgages, etc.

And likewise the amount of such tax shall be deducted and withheld from coupons, checks, or bills of exchange for or in payment of interest upon bonds of foreign countries and upon foreign mortgages or like obligations (not payable in the United States), and also from coupons, checks, or bills of exchange for or in payment of any dividends upon the stock or interest upon the obligations of foreign corporations, associations, and insurance companies engaged in business in foreign countries; and the tax in each case shall be

withheld and deducted for and in behalf of any person subject to the tax hereinbefore imposed, although such interest, dividends, or other compensation does not exceed \$3,000, by any banker or person who shall sell or otherwise realize coupons, checks, or bills of exchange drawn or made in payment of any such interest or dividends (not payable in the United States), and any person who shall obtain payment (not in the United States), in behalf of another of such dividends and interest by means of coupons, checks, or bills of exchange, and also any dealer in such coupons who shall purchase the same for any such dividends or interest (not payable in the United States), otherwise than from a banker or another dealer in such coupons; but in each case the benefit of the exemption and the deduction allowable under this section may be had by complying with the foregoing provisions of this paragraph.

License to be Obtained by Persons, etc., Engaged in Business of Collecting Foreign Payments of Interest, etc.

All persons, firms, or corporations undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner of Internal Revenue, and shall be subject to such regulations enabling the Government to ascertain and verify the due withholding and payment of the income tax required to be withheld and paid as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe.

Penalty for Failure to Obtain License.

And any person who shall knowingly undertake to collect such payments as aforesaid without having obtained a license therefor, or without complying with such regulations, shall be deemed guilty of a misdemeanor and for each offense be fined in a sum not exceeding \$5,000, or imprisoned for a term not exceeding one year, or both, in the discretion of the court.

Liability for Tax Not Affected by Any Contract Entered Into After Passage of Act.

Nothing in this section shall be construed to release a taxable person from liability for income tax, nor shall any contract entered into after this Act takes effect be valid in regard to any Federal income tax imposed upon a person liable to such payment.

The tax herein imposed upon annual gains, profits, and income not falling under the foregoing and not returned and paid by virtue of the foregoing shall be assessed by personal return under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

Deductions at Source Apply to Normal Tax Only.

The provisions of this section relating to the deduction and payment of the tax at the source of income shall only apply to the normal tax hereinbefore imposed upon individuals.

F

Penalty for Refusal or Neglect to Make Required Return or for Making False Return.

That if any person, corporation, joint-stock company, association, or insurance company liable to make the return or pay the tax aforesaid shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, such person shall be liable to a penalty of not less than \$20 nor more than \$1,000.

Penalty for Making False or Fraudulent Return.

Any person or any officer of any corporation required by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this section to be made shall be guilty of a misdemeanor, and shall be fined not exceeding \$2,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

G

Normal Tax to be Assessed and Paid on Annual Net Income of Corporations, Joint-Stock Companies and Associations.

(a) That the normal tax hereinbefore imposed upon individuals likewise shall be levied, assessed, and paid annually upon the entire net income arising or accruing from all sources during the preceding calendar year to every corporation, joint-stock company or association, and every insurance company, organized in the United States, no matter how created or organized, not including partnerships; but if organized, authorized, or existing under the laws of any foreign country, then upon the amount of net income accruing from business transacted and capital invested within the United States during such year.

Tax Not to Apply to Certain Organizations Specified.

Provided, however, That nothing in this section shall apply to labor, agricultural, or horticultural organizations, or to mutual savings banks not having a capital stock represented by shares, or to fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations and dependents of such members, nor to domestic building and loan associations, nor to cemetery companies, organized and operated exclusively for the mutual benefit of their members, nor to any corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual, nor to business leagues, nor to chambers of commerce or boards of trade, not organized for profit or no part of the net income of which inures to the benefit of the private stockholder or individual; nor

to any civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare.

Income Derived from Public Utilities or Governmental Functions Accruing to States, Territories, etc.

Provided further, That there shall not be taxed under this section any income derived from any public utility or from the exercise of any essential governmental function accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State, Territory, or the District of Columbia, nor any income accruing to the government of the Philippine Islands or Porto Rico, or of any political subdivision of the Philippine Islands or Porto Rico: *Provided,* That whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, has, prior to the passage of this Act, entered in good faith into a contract with any person or corporation the object and purpose of which is to acquire, construct, operate or maintain a public utility, no tax shall be levied under the provisions of this Act upon the income derived from the operation of such public utility, so far as the payment thereof will impose a loss or burden upon such State, Territory, or the District of Columbia, or a political subdivision of a State or Territory.

Exemptions Not to Apply to Gains or Profits Derived from Contracts by Persons or Corporations.

But this provision is not intended to confer upon such person or corporation any financial gain or exemption or to relieve such person or corporation from the payment of a tax as provided for in this section upon the part or portion of the said income to which such person or corporation shall be entitled under such contract.

Net Income of Corporations, Joint-Stock Companies, etc., How Ascertained.

(b) Such net income shall be ascertained by deducting from the gross amount of the income of such corporation,

joint-stock company or association, or insurance company, received within the year from all sources, (*first*) all the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property; (*second*) all losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any; and in the case of mines a reasonable allowance for depletion of ores and all other natural deposits, not to exceed 5 per centum of the gross value at the mine of the output for the year for which the computation is made; and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts.

Mutual Fire Insurance Companies.

Provided, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

Mutual Marine Insurance Companies, Life Insurance Companies.

Provided further, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them, less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not

include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year; (*third*) the amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year, or if no capital stock, the amount of interest paid within the year on an amount of its indebtedness not exceeding the amount of capital employed in the business at the close of the year: *Provided*, That in case of indebtedness wholly secured by collateral the subject of sale in ordinary business of such corporation, joint-stock company, or association, the total interest secured and paid by such company, corporation, or association within the year on any such indebtedness may be deducted as a part of its expense of doing business.

Bonds Issued with Guaranty That Interest Shall be Free from Taxation.

Provided further, That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed.

Interest on Deposits May be Deducted from Gross Income.

And in the case of a bank, banking association, loan or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company; (*fourth*) all sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof, or imposed by the Government of any foreign country.

*Foreign Corporations, etc., Income from Business in
United States.*

Provided, That in the case of a corporation, joint-stock company or association, or insurance company, organized, authorized, or existing under the laws of any foreign country, such net income shall be ascertained by deducting from the gross amount of its income accrued within the year from business transacted and capital invested within the United States,

Ordinary Expenses, Rentals, etc.

First. All the ordinary and necessary expenses actually paid within the year out of earnings in the maintenance and operation of its business and property within the United States, including rentals or other payments required to be made as a condition to the continued use or possession of property.

Losses and Depreciation.

Second. All losses actually sustained within the year in business conducted by it within the United States and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any, and in the case of mines a reasonable allowance for depletion of ores and all other natural deposits, not to exceed 5 per centum of the gross value at the mine of the output for the year for which the computation is made.

Reserve Funds of Insurance Companies.

And in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts.

Mutual Fire Insurance.

Provided further, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policy-holders, but shall return as taxable income all income re-

ceived by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

Mutual Marine Insurance.

Provided further, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year.

*Interest Accruing and Paid During the Year on
Indebtedness.*

Third. The amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding the proportion of one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year, or, if no capital stock, the capital employed in the business at the close of the year which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within and without the United States.

*Bonds Whose Makers Have Agreed to Pay Interest Without
Tax Deduction.*

Provided, That in the case of bonds or other indebtedness which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed.

Taxes.

Fourth. All sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof or the District of Columbia. In the case of assessment insurance companies, whether domestic or foreign, the actual deposit of sums with State or Territorial officers, pursuant to law, as additions to guarantee or reserve funds shall be treated as being payments required by law to reserve funds.

Tax to be Computed on Net Income Accruing Each Calendar Year.

(c) The tax herein imposed shall be computed upon its entire net income accrued within each preceding calendar year ending December thirty-first: *Provided, however,* That for the year ending December thirty-first, nineteen hundred and thirteen, said tax shall be imposed upon its entire net income accrued within that portion of said year from March first to December thirty-first, both dates inclusive, to be ascertained by taking five-sixths of its entire net income for said calendar year.

But Fiscal Year Other Than Calendar May be Designated by Corporations.

Provided further, That any corporation, joint-stock company or association, or insurance company subject to this tax may designate the last day of any month in the year as the day of the closing of its fiscal year and shall be entitled to have the tax payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated in the year preceding the date of assessment instead of upon the basis of the net income for the calendar year preceding the date of assessment; and it shall give notice of the day it has thus designated as the closing of its fiscal year to the collector of the district in which its principal business office is located at any time not less than thirty days prior to the date upon which its annual return shall be filed.

Returns, When to be Rendered.

All corporations, joint-stock companies or associations, and insurance companies subject to the tax herein imposed, computing taxes upon the income of the calendar year, shall, on or before the first day of March, nineteen hundred and fourteen, and the first day of March in each year thereafter, and all corporations, joint-stock companies or associations, and insurance companies, computing taxes upon the income of a fiscal year which it may designate in the manner herein-before provided, shall render a like return within sixty days after the close of its said fiscal year, and within sixty days after the close of its fiscal year in each year thereafter, or in the case of a corporation, joint-stock company or association, or insurance company, organized or existing under the laws of a foreign country, in the place where its principal business is located within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, shall render a true and accurate return under oath or affirmation of its president, vice president, or other principal officer, and its treasurer or assistant treasurer, to the collector of internal revenue for the district in which it has its principal place of business, setting forth:

Paid-up Capital.

First. The total amount of its paid-up capital stock outstanding, or, if no capital stock, its capital employed in business, at the close of the year.

Bonded Indebtedness.

Second. The total amount of its bonded and other indebtedness at the close of the year.

Gross Income.

Third. The gross amount of its income, received during such year from all sources, and if organized under the laws of a foreign country the gross amount of its income received within the year from business transacted and capital invested within the United States.

Ordinary Expenses of Operation and Maintenance.

Fourth. The total amount of all its ordinary and necessary expenses paid out of earnings in the maintenance and operation of the business and properties of such corporation, joint-stock company or association, or insurance company, within the year, stating separately all rentals or other payments required to be made as a condition to the continued use or possession of property, and if organized under the laws of a foreign country the amount so paid in the maintenance and operation of its business within the United States.

Losses and Depreciation.

Fifth. The total amount of all losses actually sustained during the year and not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts.

Certain Premium Deposits Not to be Returned as Taxable Income.

Provided further, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

Premiums, Reinsurance, etc.

Provided further, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on ac-

count of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year;

Foreign Corporations Doing Business in the United States.

And in case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, all losses actually sustained by it during the year in business conducted by it within the United States, not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts.

Mutual Fire Insurance Companies.

Provided further, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

Mutual Marine Insurance Companies.

Provided further, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on ac-

count of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year.

What Interest on Bonded Indebtedness May be Deducted.

Sixth. The amount of interest accrued and paid within the year on its bonded or other indebtedness not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock, outstanding at the close of the year, or, if no capital stock, the amount of interest paid within the year on an amount of indebtedness not exceeding the amount of capital employed in the business at the close of the year, and in the case of a bank, banking association, or trust company, stating separately all interest paid by it within the year on deposits;

Interest on Indebtedness of Foreign Corporations.

Or in case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, interest so paid on its bonded or other indebtedness to an amount of such bonded or other indebtedness not exceeding the proportion of its paid-up capital stock outstanding at the close of the year, or, if no capital stock, the amount of capital employed in the business at the close of the year, which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within and without the United States.

Taxes Paid.

Seventh. The amount paid by it within the year for taxes imposed under the authority of the United States and separately the amount so paid by it for taxes imposed by the Government of any foreign country.

Net Income to be Shown on Return.

Eighth. The net income of such corporation, joint-stock company or association, or insurance company, after making the deductions in this subsection authorized. All such returns shall as received be transmitted forthwith by the collector to the Commissioner of Internal Revenue.

Assessments to be Made, and Notice to be Given.

All assessments shall be made and the several corporations, joint-stock companies or associations, and insurance companies shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessment shall be paid on or before the thirtieth day of June.

When False Return Has Been Rendered and Facts Are Detected within Three Years, Commissioner May Make New Assessment.

Provided, That every corporation, joint-stock company or association, and insurance company, computing taxes upon the income of the fiscal year which it may designate in the manner hereinbefore provided, shall pay the taxes due under its assessment within one hundred and twenty days after the date upon which it is required to file its list or return of income for assessment; except in cases of refusal or neglect to make such return, and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as provided for in this section or by existing law, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such corporation, joint-stock company or association, or insurance company immediately upon notification of the amount of such assessment;

Penalty and Interest Incurred by Failure to Pay Tax Within Prescribed Time.

And to any sum or sums due and unpaid after the thirtieth day of June in any year, or after one hundred and twenty

days from the date on which the return of income is required to be made by the taxpayer, and after ten days notice and demand thereof by the collector, there shall be added the sum of 5 per centum on the amount of tax unpaid and interest at the rate of 1 per centum per month upon said tax from the time the same becomes due.

Returns Rendered to be Filed with Commissioner of Internal Revenue.

(d) When the assessment shall be made, as provided in this section, the returns, together with any corrections thereof which may have been made by the commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such.

Returns to be Open to Inspection Under Certain Conditions.

Provided, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President: *Provided further,* That the proper officers of any State imposing a general income tax may, upon the request of the Governor thereof, have access to said returns or to an abstract thereof, showing the name and income of each such corporation, joint-stock company, association or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe.

Penalty to Corporations, etc., for Refusing or Neglecting to File Required Return.

If any of the corporations, joint-stock companies or associations, or insurance companies aforesaid shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, or shall render a false or fraudulent return, such corporation, joint-stock company or association, or insurance company shall be liable to a penalty of not exceeding \$10,000.

H

That the word "State" or "United States" when used in this section shall be construed to include any Territory, Alaska, the District of Columbia, Porto Rico, and the Philippine Islands, when such construction is necessary to carry out its provisions.

That sections thirty-one hundred and sixty-seven, thirty-one hundred and seventy-two, thirty-one hundred and seventy-three, and thirty-one hundred and seventy-six of the Revised Statutes of the United States as amended are hereby amended so as to read as follows:

"SEC. 3167. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties; or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return by any person or corporation, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return or any part thereof or the amount or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office and be incapable thereafter of holding any office under the Government.

"SEC. 3172. Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal-revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

"SEC. 3173. It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, in case of a special tax, on or before the thirty-first day of July in each year, in case of income tax on or before the first day of March in each year, and in other cases before the day on which the taxes accrue, to make a list or return, verified by oath or affirmation, to the collector or a deputy collector of the district where located, of the articles or objects, including the amount of annual income charged with a duty or tax, the quantity of goods, wares, and merchandise made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles, or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then and in that case it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath or affirmation by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such per-

son: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest postoffice, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath or affirmation. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is false or fraudulent, or contains any undervaluation or understatement, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of such person, or any other person he may deem proper, to appear before him and produce such books, at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects liable to tax or the returns thereof. The collector may summon any person residing or found within the State in which his district lies; and when the person intended to be summoned does not reside and cannot be found within such State, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned.

"SEC. 3176. When any person, corporation, company, or association refuses or neglects to render any return or list required by law, or renders a false or fraudulent return or list, the collector or any deputy collector shall make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the collector, and on his own view and information, such list or return, according to the form prescribed, of the income, property, and objects liable to tax owned or possessed or under the care or management of such person or corporation, company or association, and the Commissioner of Internal Revenue shall assess all taxes not paid by stamps, including the amount, if any, due for special tax, income or other tax, and in case of any return of a false or fraudulent list or valuation intentionally he shall add 100 per centum to such tax; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add 50 per centum to such tax. In case of neglect occasioned by sickness or absence as aforesaid the collector may allow such further time for making and delivering such list or return as he may deem necessary, not exceeding thirty days. The amount so added to the tax shall be collected at the same time and in the same manner as the tax unless the neglect or falsity is discovered after the tax has been paid, in which case the amount so added shall be collected in the same manner as the tax; and the list or return so made and subscribed by such collector or deputy collector shall be held *prima facie* good and sufficient for all legal purposes."

J

Receipts for Tax Paid to be Given by Collector.

That it shall be the duty of every collector of internal revenue, to whom any payment of any taxes other than the tax represented by an adhesive stamp or other engraved stamp is made under the provisions of this section, to give to the person making such payment a full written or printed receipt,

expressing the amount paid and the particular account for which such payment was made; and whenever such payment is made such collector shall, if required, give a separate receipt for each tax paid by any debtor, on account of payments made to or to be made by him to separate creditors in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands to the amounts specified in such receipts; and such receipts shall be sufficient evidence in favor of such debtor to justify him in withholding the amount therein expressed from his next payment to his creditor; but such creditor may, upon giving to his debtor a full written receipt, acknowledging the payment to him of whatever sum may be actually paid, and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

K

Jurisdiction Conferred on District Courts in Compelling Attendance of Witnesses, etc.

That jurisdiction is hereby conferred upon the district courts of the United States for the district within which any person summoned under this section to appear to testify or to produce books shall reside, to compel such attendance, production of books, and testimony by appropriate process.

L

Laws Relating to Assessment, Remission, Collection, and Refunding of Taxes Made Applicable.

That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed and not inconsistent with the provisions of this section, are hereby extended and made applicable to all the provisions of this section and to the tax herein imposed.

M

Provisions Relating to Income Tax Extended to Porto Rico and Philippine Islands.

That the provisions of this section shall extend to Porto Rico and the Philippine Islands: *Provided*, That the administration of the law and the collection of the taxes imposed in Porto Rico and the Philippine Islands shall be by the appropriate internal-revenue officers of those governments, and all revenues collected in Porto Rico and the Philippine Islands thereunder shall accrue intact to the general governments thereof, respectively: and *Provided further*, That the jurisdiction in this section conferred upon the district courts of the United States shall, so far as the Philippine Islands are concerned, be vested in the courts of the first instance of said islands: and *Provided further*, That nothing in this section shall be held to exclude from the computation of the net income the compensation paid any official by the governments of the District of Columbia, Porto Rico and the Philippine Islands or the political subdivisions thereof.

* * * * *

S

Income Subject to Special Excise Tax Under Act of August 5, 1909.

Section 4 (paragraph S) of the act of October 3, 1913, further provides * * * That a special excise tax with respect to the carrying on or doing of business, equivalent to 1 per centum upon their entire net income, shall be levied, assessed, and collected upon corporations, joint-stock companies or associations, and insurance companies, of the character described in section thirty-eight of the Act of August fifth, nineteen hundred and nine, for the period from January first to February twenty-eighth, nineteen hundred and thirteen, both dates inclusive, which said tax shall be computed upon one-sixth of the entire net income of said corporations, joint-stock companies or associations, and insur-

ance companies, for said year, said net income to be ascertained in accordance with the provisions of subsection G of section two of this act.

*One Return May be Filed for Both Special Excise and
Income Tax for Year 1913.*

Provided further, That the provisions of said section thirty-eight of the Act of August fifth, nineteen hundred and nine, relative to the collection of the tax therein imposed shall remain in force for the collection of the excise tax herein provided, but for the year nineteen hundred and thirteen it shall not be necessary to make more than one return and assessment for all the taxes imposed herein upon said corporations, joint-stock companies or associations, and insurance companies, either by way of income or excise, which return and assessment shall be made at the times and in the manner provided in this act. * * *

PART III

TREASURY REGULATIONS

**Comprising 199 Articles, Construing the Administrative
Features of the Law. See Index, Part VIII,
for Detailed References**

PREFACE

The accompanying regulations embrace the various administrative features of the law (sec. 2, Act of Oct. 3, 1913) imposing a tax on incomes. They contain instructions relative to the preparation of returns, etc., and are designed to assist both the taxpayer and the officers charged with its enforcement in complying with the requirements of this law.

Liberal construction of the law has been given that those charged with withholding the tax at the source may not do so unnecessarily. Withholding agents may forward evidences of nonliability to payment, when such evidences are received by them, to collector for the district in lieu of the tax. This will relieve them of the necessity of withholding such tax.

The regulations are arranged according to general subjects, as follows:

Part 1. Individual income returns and collections.

Part 2. Collections at the source.

- A. Bonds, mortgages, deeds of trust, etc.
- B. Bonds, mortgages, deeds of trust, etc., by first bank or collection agency where certificates of owners are not filed.
- C. Bonds, mortgages, dividends, etc., of foreign corporations.
- D. Salaries, wages, rent, etc.
- E. Fiduciaries.

Part 3. Relative to corporations, joint-stock companies or associations, and insurance companies.

Part 4. Assessment and collection.

All forms of certificates herein provided shall be 8 inches wide and 3½ inches from top to bottom, and printed on paper of substantial weight and texture.

REGULATIONS

Regulations concerning the tax imposed by Section 2, Act of October 3, 1913, on net income of Individuals, Corporations, Joint-Stock Companies, Associations, and Insurance Companies.

TREASURY DEPARTMENT.

OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
WASHINGTON, D. C., January 5, 1914.

PART I

INDIVIDUAL INCOME RETURNS AND COLLECTIONS.

Persons Taxable.

ARTICLE 1. Section 2 of the above-named act imposes a tax of 1 per centum (designated as the normal tax) on net incomes arising or accruing from *all sources* during the preceding calendar year to—

- (a) Every citizen of the United States, whether residing at home or abroad; and
- (b) Every person residing in the United States, though not a citizen thereof; and
- (c) From all property owned and from every business, trade, or profession carried on in the United States, by a person residing elsewhere.

Additional or Super Tax.

ART. 2. Said section also imposes an additional tax on all net incomes of individuals exceeding \$20,000, as follows:

- 1 per cent on incomes exceeding \$20,000 and not exceeding \$50,000.
- 2 per cent on incomes exceeding \$50,000 and not exceeding \$75,000.
- 3 per cent on incomes exceeding \$75,000 and not exceeding \$100,000.

- 4 per cent on incomes exceeding \$100,000 and not exceeding \$250,000.
- 5 per cent on incomes exceeding \$250,000 and not exceeding \$500,000.
- 6 per cent on incomes exceeding \$500,000.

Net Income Defined.

ART. 3. The *Net Income* shall consist of the total gains, profits, and income derived from all sources (designated as gross income) less deductions numbered first to sixth, inclusive, specifically enumerated in paragraph B of the act. (See Article 6.)

Normal Tax; Upon What Computed.

In computing the taxable income for the purposes of the *normal tax* there shall be deducted from the net income as above ascertained:

- (a) The amount included in the gross income received as dividends upon the stock or from the net earnings of any corporation, joint-stock company, association, or insurance company which is taxable upon its net income;
- (b) The amount of income the tax upon which has been paid or withheld for payment at the source; and
- (c) The specific exemption of \$3,000 or \$4,000, as the case may be, except in the case of nonresident aliens.

Gross Income. What it Includes.

ART. 4. *Gross income* includes all gains, profits, and income derived from—

- (a) Salaries, wages, or compensation for personal service of whatever kind and in whatever form paid.
- (b) Professions, vocations, business (including income from copartnerships), trade, commerce, or sales or dealings in property, growing out of the ownership or use of or interest in, real or personal property.
- (c) Interest, rent, dividends, securities, or transaction of any lawful business carried on for gain or profit. (See Art. 67 as to interest on deposits and certificates of deposit.)

(d) Gains or profits and income derived from any source whatever, including the *income* from, but not the value of, property acquired by gift, bequest, devise or descent.

The foregoing is held to include all income, gains, and profits arising or accruing from all sources whatever in the calendar year for which the return is made, except as herein-after specifically stated.

Income Exempt from Taxation.

ART. 5. The following items should not be included as gross income:

(a) *Value* of property acquired by gift, bequest, devise, or descent during the year.

(b) Proceeds of life insurance policies paid upon the death of the person insured to beneficiaries, or payments made by or credited to the insured, on life insurance, endowment, or annuity contracts, upon the return thereof to the insured at the maturity of the term mentioned in the contract, but this shall not be construed to mean that interest payments to beneficiaries from insurance companies shall not be included as income.

(c) Income derived from interest upon the obligations of a State or any political subdivision thereof and upon the obligations of the United States or its possessions.

(d) The compensation of the President of the United States in office at the time of the passage of the act of October 3, 1913, during the term for which he was elected, and the judges of the Supreme and inferior courts of the United States in office at the time of the passage of the act of October 3, 1913;

(e) The compensation of all officers and employees of a State or any political subdivision thereof, including public-school teachers, etc. When such State officers or employees are compensated by the United States, they must include such income as taxable.

ART. 6. Deductions and exemptions allowed in computing taxable income for the purposes of the normal tax.

Deductions Allowed Under Paragraph B.

Under *paragraph B* the following items are to be deducted from the *gross income*:

1. The amount of necessary expenses actually paid for carrying on business, but not including business expenses of partnerships and not including personal, living, or family expenses.
2. All interest paid within the year on personal indebtedness of the taxpayer incurred in the conduct of business.
3. All National, State, county, school, and municipal taxes paid within the year (not including those assessed against local benefits).
4. Losses actually sustained during the year incurred in trade or arising from fires, storms, or shipwreck and not compensated for by insurance or otherwise.
5. Debts due to the taxpayer which have been actually ascertained to be worthless and charged off within the year.
6. Amount representing a reasonable allowance for the exhaustion, wear, and tear of property arising out of its use or employment in the business, not to exceed, in the case of mines, 5 per cent of the gross value at the mine of the output for the year for which the computation is made, *but not including the expense of restoring property or making good the exhaustion thereof, for which an allowance is or has been made*, nor for any amount paid for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate.

"Gross Value at the Mine" Defined.

The term "gross value at the mine," as used in paragraphs B and G of section 2 of the act of October 3, 1913, prescribing a limit to the amount which may be deducted in the return of individuals and corporations as depreciation in the case of mines, is held to mean the *bona fide* market value of ore, coal, crude oil, and gas at the mine or well, where such value is established by actual sales at the mine or well; and in case the market value of the product of the

mine or well is established at some other place than at the mine or well, or on the basis of the bullion or metallic value of the ore, then the gross value at the mine is held to be the value of the ore, coal, oil, or gas sold, or of the metal produced, less transportation, reduction, and smelting charges.

7. The amount included in gross income received as dividends upon the stock, or upon the net earnings, of any corporation, joint-stock company, association, or insurance company which is taxable upon its net income.

8. The amount of income, the normal tax upon which has been paid or withheld for payment at the source of income.

Gifts or Donations Made During the Year Not to be Deducted.

None of the above items of deduction shall include money or other items of value disposed of by gift, donation, or endowment.

Exemptions Allowed Under Paragraph C.

Under paragraph C the personal exemption of \$3,000 or \$4,000, as the case may be, is to be deducted from the net income except in the cases of nonresident aliens. (See Arts. 7, 9, and 10.)

Tax Computed on the Calendar Year Except for 1913.

ART. 7. The act provides that the said normal tax shall be computed on the remainder of said net income accruing during each preceding calendar year, and that for the year ended December 31, 1913, said tax shall be computed on the net income accruing from March 1 to December 31, both dates inclusive, after deducting five-sixths only of the specific exemptions and deductions authorized. A specific exemption, therefore, of \$2,500 or \$3,333.33, as the case may be, will be allowed for the year 1913.

Income of Nonresident Aliens Subject to the Normal Tax.

ART. 8. The income of nonresident aliens subject to the normal tax of 1 per cent shall consist of the total gains,

profits, and income derived from all property owned, and from every business, trade, or profession carried on and capital invested within the United States (to be designated as gross income), less deductions (1 to 8, inclusive) specifically enumerated in paragraph B of the act (see Art. 6), in so far as said deductions relate to said gains, profits, etc.

Exemption Under Paragraph C Not Allowed in Computing Taxable Incomes of Nonresident Aliens.

The specific exemption in paragraph C of the act can not be allowed as a deduction in computing the normal tax of nonresident aliens.

Nonresident Aliens Subject to Additional or Surtax.

Nonresident aliens are subject to additional or surtax the same as prescribed in the case of citizens of the United States or persons residing in the United States.

The responsible heads, agents, or representatives of said nonresident aliens who are in charge of the property owned or business carried on or capital invested shall make full and complete return of said income and shall pay the tax as provided herein. (See T. D. 2109.)

Specific Exemption Allowed to Single Person or Married Persons Living Apart.

ART. 9. Under paragraph C, every single person and every married person not living with husband or wife in the sense below defined, who has a net income exceeding \$3,000 per annum, is liable to pay the normal tax under this law, but in making return for such tax such person may claim an exemption of \$3,000 from his or her total net income.

Specific Exemption Allowed with Respect to Aggregate Income of Husband and Wife.

ART. 10. Husband and wife living together are entitled to an exemption of \$4,000 only from the aggregate net income of both, which may be deducted in making the return of such income for taxation. However, when the husband

and wife are separated and living permanently apart from each other each shall be entitled to an exemption of \$3,000.

If Husband and Wife Have Separate Estates One Return May be Made Showing Income of Each.

If the husband and wife not living apart have separate estates, the income from both may be made on one return, but the amount of income of each, and the full name and address of both, must be shown in such return.

The husband, as the head and legal representative of the household and general custodian of its income, should make and render the return of the aggregate income of himself and wife, and for the purpose of levying the income tax it is assumed that he can ascertain the total amount of said income.

Wife's Return of Separate Estate to be Attached to Husband's Return or Husband's Income May be Included in Wife's Return.

If a wife has a separate estate managed by herself as her own separate property and receives an income of \$3,000 or over, she may make return of her own income, and if the husband has other net income, making the aggregate of both incomes more than \$4,000, the wife's return should be attached to the return of her husband, or his income should be included in her return, in order that a deduction of \$4,000 may be made from the aggregate of both incomes. The tax in such case, however, will be imposed only upon so much of the aggregate income of both as shall exceed \$4,000.

Return Required if Either Husband or Wife Has an Income of \$3,000 or Over.

If either husband or wife separately has an income equal to or in excess of \$3,000, a return of annual net income is required under the law, and such return must include the income of both, and in such case the return must be made even though the combined income of both be less than \$4,000.

Return Required if Aggregate Income of Husband and Wife is in Excess of \$4,000, Although Neither May Have an Income of \$3,000 or Over.

If the aggregate net income of both exceeds \$4,000, an annual return of their combined incomes must be made in the manner stated, although neither one separately may have an income of \$3,000 per annum. They are jointly and separately liable for such return and for the payment of the tax.

When Status is to be Determined.

The single or married status of the person claiming the specific exemption shall be determined as of the time of claiming such exemption if such claim be made within the year for which return is made, otherwise the status at the close of the year.

Interest in Partnership Profit; How Reported.

ART. 11. His or her pro rata share of the net profits derived from a partnership business, whether or not divided and paid out, shall be included in the personal return of each partner.

Partnerships, as Such, Not Liable to Tax, but Statement May be Required.

ART. 12. Partnerships, as such, are not subject to the income tax, and are only required to make return when requested to do so by the Commissioner of Internal Revenue or the collector of internal revenue for the district in which said partnership has its principal place of business; and when a return is required it shall give a complete and correct statement of the gross income of the said partnership and also a complete statement of the actual expenses of conducting the business of said partnership, and the net profits and the name and address of each member of said partnership, and their respective interest in the net profit thus reported.

Partnership Profits to be Included in Returns Made by Individual Partners.

ART. 13. The net annual profits of a partnership when divided and paid to the members thereof shall be included by each individual partner receiving same in his annual return of net income, and the tax shall be paid thereon as required by law. When the annual profits of a partnership are not distributed and paid to the members thereof the respective interest of each member in said profits shall be ascertained, and the individuals entitled thereto shall include the said amount in their annual return as a part of their gross income, the same as if said profits had been distributed and paid to them.

Individual Partnership Profits.

ART. 14. Undivided annual net profits of partnerships thus returned by the individual members thereof, and tax paid thereon, shall not, when said profits are actually distributed and paid to such members, be again included in their annual return as a part of their gross income.

Partnerships, as Such, May File Certificate Claiming Deduction.

Partnerships owning interest coupons or registered interest orders may claim deduction for legitimate expenses incurred in business by filing the proper certificate with the withholding agent. (See T. D. 1957.)

RETURNS.

When Returns of Annual Net Income of \$3,000 or Over Are to be Made.

ART. 15. Each person of lawful age whose net income is \$3,000 or over shall, on or before the 1st day of March, 1914, and on or before the 1st day of March each year thereafter, file an accurate return of income under oath or affirmation, except as herein provided. (See Article 8.)

Where Filed.

If the person making the return of income has his place of business in the collection district in which he resides, the return shall be filed with the collector of that district. If his principal place of business is elsewhere, the return shall be filed in the district in which that business is located.

In the case of an individual residing in a foreign country return shall be made to the collector of internal revenue for the district where his principal business is carried on within the United States.

Form of Return.

ART. 16. The required return will be made on Form 1040 in accordance with the instructions printed thereon, and will specifically set forth—

1. All income received from each specific source and the total thereof.
2. All the separate items of deduction claimed under paragraph B of this law.
3. The amount of specific exemption claimed under paragraph C.
4. All amounts of income upon which tax has been withheld at source by withholding agent or agents.

When Return Will be Made by Guardian or Duly Authorized Agent.

ART. 17. When by reason of minority, insanity, absence, sickness, or other disability, the individual is unable to make his own return, the same shall be made by his guardian or duly authorized agent.

Executor or Administrator to Make Return in Case of Death.

In the case of the death of a person whose net income for the part of the year during which he lived was \$3,000 or over, return of net income shall be made by the executor or administrator of the estate of the deceased, and in computing the taxable income of such estate there shall be allowed the specific exemption provided by law.

*Notice of Failure to File Return to be Served on
Guardian or Agent.*

ART. 18. When the required return has not been made by a person acting as guardian, agent of a nonresident alien, or by one acting in any other capacity in which the law makes it a duty for him to represent the individual, notice of failure to make such return will be served upon such guardian or agent.

*Evidence May be Filed Showing Nonliability to Make
Return.*

The person upon whom such notice is served may, however, when the facts warrant, file evidence with the collector showing that the individual for whom he acts did not receive an income subject to tax during the year, or that the said guardian or agent had filed the return with some other collector.

*Returns Not Required of Persons for Whom Full Returns
Have Been Made by Others.*

ART. 19. Any individual whose net income is less than \$20,000, for whom full return has been made by others as withholding agents, shall not be required to make a return.

Returns to be Prepared by Collector in Certain Cases.

ART. 20. If any person liable to pay an income tax for himself or others shall fail to make and deliver the return required by law, but shall consent to disclose the particulars of any business or occupation liable to pay such tax, it shall be the duty of the collector or deputy collector to make such list or return, which being distinctly read and consented to, signed, and verified by oath or affirmation by the person liable to make such return, the same may be received as the list or return of such person.

Refusal or Neglect to Make Return.

ART. 21. In case any person liable to make return shall neglect or refuse to make or render a list or return, or shall

render a willfully false or fraudulent return, it shall be the duty of the collector, after due notice has been given, to make such list, according to the best information he can obtain by the examination of such person, or any other evidence.¹

Penalty for Failure to Make Return or for Making False Return.

When duly certified by the collector, the said list thus prepared shall be the return of said person, and the tax so ascertained to be due, together with the 50 per cent or 100 per cent penalty incurred, shall be assessed and collected.

Returns to be Verified by Oath or Affirmation.

ART. 22. The annual return must be verified by oath or affirmation of the person making the same. Collectors are directed by law to require every return to be so verified by the person rendering it. The affidavit may be made before the collector for the district or before any officer authorized by law to administer oaths.

Extension of Time to File Return May be Granted.

ART. 23. When the return is not filed within the required time by reason of sickness or absence of the individual, an extension of time, not exceeding 30 days from March 1, within which to file such return may be granted by the collector, provided a written application therefor is made by the individual within the period for which such extension is desired.

Returns to be Forwarded to Commissioner of Internal Revenue by Registered Mail.

ART. 24. The annual returns will be forwarded by collectors by registered mail to the Commissioner of Internal Revenue with the list for the month in which the returns are filed. Collectors must provide that said returns and all

¹For method of procedure in such cases, see secs. 3173 and 3176, Rev. Stat., and also Form 1045, the form of notice to be given in such cases.

forms relating thereto are securely sealed in envelopes or packages before forwarding the same.

Assessments; Notification of; When to be Paid.

ART. 25. All assessments shall be made by the Commissioner of Internal Revenue, and all persons shall be notified of the amount for which they are respectively liable on or before the 1st day of June of each successive year, and said assessments shall be paid on or before the 30th day of June, except in cases of refusal or neglect to make such return and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained, as provided by the law, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such person or persons immediately upon notification of the amount of such assessment.

Penalty for Failure to Pay Tax.

To any sum or sums due and unpaid after the 30th day of June in any year, and for 10 days after notice and demand thereof by the collector, there shall be added the sum of 5 per cent on the amount of tax unpaid, and interest at the rate of 1 per cent per month upon said tax from the time the same became due, except from the estates of insane, deceased, or insolvent persons.

Penalties for Failure to Make Returns.

ART. 26. If any person, corporation, joint-stock company, association, or insurance company liable to make returns or pay tax shall refuse or neglect to make returns at the time or times specified in each year, such person shall be liable to a penalty of not less than \$20 nor more than \$1,000.

Penalties for Making False or Fraudulent Returns.

Any person or any officer of any corporation required by law to make, render, sign, or verify any return who makes

any false or fraudulent return or statement with intent to defeat or evade the assessment required by law to be made shall be guilty of a misdemeanor, and shall be fined not exceeding \$2,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

ART. 27. Nothing in the law or these regulations shall be construed to release a taxable person from liability for income tax, nor shall any contract entered into after the act of October 3, 1913, took effect be valid in regard to any Federal income tax imposed upon a person liable to such payment.

ART. 28. For regulations relative to the claiming of exemptions and deductions on income, the tax on which is to be deducted and withheld at the source, see Article 33.

PART 2

COLLECTIONS AT THE SOURCE.

Collections at Source Applies Only to the Normal Tax Imposed Upon Individuals. Collection at Source Not Operative Until November 1, 1913.

ART. 29. The deductions and payment of the tax at the source of income applies only to the normal tax imposed upon individuals and shall not be construed to require any of such tax to be withheld prior to the 1st day of November, 1913.

Persons, Firms, etc., Required to Withhold Tax at the Source.

ART. 30. Paragraph E of section 2 of the act provides that—

All persons, firms, copartnerships, companies, corporations, joint-stock companies or associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, agents, receivers, conservators, employers, and all officers and employees of the United States having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual gains, profits, and income of another person, exceeding \$3,000 for any taxable year, other than dividends on capital stock, or from the net earnings of corporations and joint-stock companies or associations subject to like tax, who are required to make and render a return in behalf of another, as provided herein, to the collector of his, her, or its district, are hereby authorized and required to deduct and withhold from such annual gains, profits, and income such sum as will be sufficient to pay the normal tax imposed thereon by this section, and shall pay to the officer of the United States Government authorized to receive the same; and they are each hereby made personally liable for such tax.

Withholding Agents.

ART. 31. All persons, firms, etc., mentioned in the above-quoted paragraph are referred to in these regulations as

"debtors" or "withholding agents," and the word "source" is to apply to the place where the income originated and is payable.

Income as to Which Tax is to be Withheld.

ART. 32. The *income* from which the normal tax of 1 per cent is to be *withheld* by withholding agents includes all items of income exceeding in the aggregate \$3,000 and payable to any one person during the year, except:

(a) Dividends on capital stock or from the net earnings of corporations and joint-stock companies or associations and insurance companies subject to like tax.

(b) Income of an individual which is not fixed or certain and not payable at stated periods, or is indefinite or irregular as to amount or time of accrual, shall not be withheld at the source, but *shall be listed in the annual return of the individual*, and the tax shall be paid thereon by him.

Incomes derived from the following professions and vocations come under this head: Agents compensated on the commission basis, lawyers, doctors, authors, inventors, and other professional persons whose income is irregular and indefinite.

Special Fees and Annual Retainers.

Such persons shall make personal return of all their income, provided their total net income from all sources is \$3,000 or over. For example: When a lawyer receives a retainer of \$5,000 as a special fee, a deduction therefrom shall not be made by the payer; but when a lawyer receives a retainer of \$5,000 per annum, and the exemption claimed is \$3,000, \$2,000 of such income would be taxed and the tax retained at the source; or if his exemption claimed should be \$4,000, \$1,000 of such income would be taxed and the tax thereon withheld at the source.

(c) Items listed in article 5, which are wholly exempt from tax.

Exemptions Under Paragraph C. Certificate to be Filed with Withholding Agent.

ART. 33. (a) In all cases where the income tax of a person is withheld and deducted and paid or to be paid at the source, such person shall *not* receive the benefit of the deduction and exemption allowed in paragraph C (see Arts. 9 and 10) except by an application to the collector for refund of the tax unless he shall, *not less than 30 days prior to the day on which the return of his income is due*, file with the person who is required to withhold and pay tax for him a certificate claiming the benefit of such exemption, and thereupon no tax shall be withheld upon the amount of such exemption.

Penalty for Making False Representations to Obtain Exemption.

If any person for the purpose of obtaining any allowance or reduction by virtue of a claim for such exemption, either for himself or for any other person, knowingly makes any false statement or false or fraudulent representation, he shall be liable to a penalty of \$300.

Deductions Under Paragraph B. Form 1008 to be Filed with Withholding Agent or Collector.

(b) Nor shall any person under the foregoing conditions be allowed the benefit of any deduction provided for in subsection B (see Art. 6, 1 to 6) unless he shall, not less than 30 days prior to the day on which the return of his income is due, either file with the person who is required to withhold and pay tax for him a true and correct return (on Form 1008) of his annual gains, profits, and income from all other sources, and also the deductions asked for, and the showing thus made shall then become a part of the return to be made in his behalf by the person required to withhold and pay the tax, and the debtor or withholding agent will only withhold the tax on the payments made in excess of the deductions claimed on said form. Or such person may likewise make

application for deductions to the collector of the district in which the return is made or to be made for him. (See T. D., 1965.)

Certificate Filed on Behalf of Minors or Insane Persons.

If such person is a minor or an insane person, or is absent from the United States, or is unable owing to serious illness to make the return and application above provided for, the return and application may be made for him or her by the person required to withhold and pay the tax, he making oath on certificate (Form 1009) under the penalties of this act that he has sufficient knowledge of the affairs and property of his beneficiary to enable him to make a full and complete return for him or her, and that the return and application made by him are full and complete.

Claims for Refund.

(c) When, however, claims for exemption and deductions as above described are not filed within the prescribed time, the tax collected in excess can be remitted only on presentation of a claim for refund under the provisions of section 3220, Revised Statutes, said claims to be made either by the withholding agent against whom the assessment was made or by the person on account of whom such taxes were withheld.

Claims for Abatement.

Claims for abatement of taxes erroneously assessed, or which are excessive in amount, may, prior to collection thereof, be filed under the provisions of said section 3220, Revised Statutes, either by the withholding agent against whom the assessment was made or by the persons on account of whom such taxes were withheld.

Taxes Withheld Not to be Forwarded to Collector Until Notices of Assessment Have Been Received.

In the monthly list returns as now prescribed a space is provided to show the amount of taxes which the withholding agent may remit to the collector when such returns are filed. The withholding agent will not, however, forward

to the collector amounts withheld by him until notices of assessment are received from the collector.

Claims for *exemption* and *deductions* may be filed with the withholding agent and claims for *deductions* may be filed with the collector *not later than 30 days prior to March 1*.

Withholding Agents to be Furnished Statement of Deductions Claimed Through Collector.

In cases where claims for deductions are filed with the collector within the time prescribed the collector will immediately furnish the withholding agent (whose name and address must be shown on Form 1008) with a statement of the amount of deductions claimed, and said withholding agent shall not withhold and pay the normal tax to the extent of the deductions claimed as per said list.

Withholding agents should not file their annual returns until after the expiration of the time allowed persons to file claims for exemptions and deductions, and if claims for deductions are filed with the collector in the required time, yet not in sufficient time to have the adjustment made by the withholding agent, the collector will make the adjustment on the withholding agent's return and in reporting such withholding agent for assessment will make allowance for the amount of such deductions claimed. Notice of such adjustment, however, must be furnished the withholding agent.

Tax Withheld to be Paid to Collector of District.

ART. 34. The normal tax of 1 per cent shall be deducted and withheld *at the source*, and payment made to the collector of internal revenue as provided in the law, by the debtor, or his, her, or its duly appointed agent authorized to make such deduction and payment.

Tax Withheld by One Agent Not to be Again Withheld by Another Agent.

No other person, firm, or organization, in whatever capacity acting, having the receipt, custody, or disposal of any

income, as herein provided, shall be required to again deduct and withhold the normal tax of 1 per cent thereon, provided that any such person, firm, or organization other than the debtor who has withheld said tax shall file with the collector of internal revenue for his, her, or its district a certificate (Form 1006) showing from whom and in what amount the tax has been so withheld.

Returns to be Made to Collector of Internal Revenue.

ART. 35. Withholding agents who are required to make monthly returns will, on or before the 20th day of each month, file with the collector for their respective districts such *returns* for the preceding month, accompanied by all certificates relating thereto, and there shall also accompany said returns all certificates claiming exemptions and deductions which are not required to be listed thereon; and on or before the 1st day of March in each year said withholding agents shall likewise file their *annual returns* for the preceding calendar year. Annual returns (Forms 1041 and 1042) must be accompanied by all certificates claiming exemptions and deductions relating thereto.

ART. 36. For regulations as to assessment and collection of taxes from withholding agents, see article 25 and "Assessments and collections," Part 4.

A

INCOME DERIVED FROM INTEREST UPON BONDS AND MORTGAGES OR DEEDS OF TRUST OR OTHER SIMILAR OBLIGATIONS OF CORPORATIONS, ETC.

Tax on Income Derived from Interest on Bonds, etc., to be Deducted.

ART. 37. Under the law a tax of 1 per cent, designated as the normal tax, shall be deducted at "the source," beginning November 1, 1913, from all income accruing and payable to any person subject to such tax which may be derived from interest upon bonds and mortgages, or deeds of trust, or other similar obligations, including equipment trust agree-

DEPARTMENT OF
CALIFORNIA

ments and receivers' certificates of corporations, joint-stock companies or associations, and insurance companies, although such interest does not amount to \$3,000.

Interest on State and Government Obligations Exempt.

Income derived from the interest upon the obligations of a State, county, city, or any other political subdivision thereof, and upon the obligations of the United States or its possessions, is not subject to the income tax, and certificates of ownership in connection with coupons or registered interest orders for such interest will not be required.

*Term "Debtor" to Apply to all Corporations, etc., and to
Duly Appointed Withholding and Paying Agents.*

ART. 38. The term "debtor," as hereinafter used, shall apply to all corporations, joint-stock companies or associations, and insurance companies; and such "debtor" may appoint withholding and paying agents to act for it in matters pertaining to the collection of this tax, upon filing with the collector of internal revenue for the district a proper notice of the appointment of such agent or agents. Where such withholding agent is so authorized by the debtor corporation, he may file with the collector of his district the required returns and accompanying certificates (Arts. 50 and 51), in which case the assessment of the tax withheld by him will be made in that district. Unless such authority is given, such reports, etc., will be furnished by the debtor corporation to the collector of its district (i. e., the district in which its principal financial or business office is located), where, in such case, assessment will be made.

Tax to be Deducted and Withheld by Debtor Corporation.

ART. 39. For the purpose of collecting the tax on all coupons and registered interest originating or payable in the United States, the source shall be the debtor (or its with-

holding and paying agent in the United States), who shall deduct the tax when same is to be withheld, and no other bank, trust company, banking firm, or individual taking coupons or interest orders for collection, or otherwise, shall withhold the tax thereon, where such coupons or orders for registered interest are accompanied by certificates of ownership signed by the owners of the bonds upon which the interest matured. These certificates shall be made on the prescribed forms and shall be made out by each owner of bonds for the coupons or interest orders for each separate issue of bonds or obligations of each debtor. (See Arts. 43 and 46 and 70.)

Substitute Certificates, When Permitted. Record to be Kept by Collecting Agent.

ART. 40. Responsible banks, bankers, and collecting agents receiving coupons for collection with the aforesaid certificates of ownership attached may present the coupons with the attached certificates to the debtor or withholding agent for collection, or such certificates may be attached and forwarded direct to the Commissioner of Internal Revenue, provided such bank, banker, or collecting agent shall substitute for such certificates its own certificate, and shall keep a complete record of each transaction, showing—

1. Serial number of item received.
2. Date received.
3. Name and address of person from whom received.
4. Name of debtor corporation.
5. Class of bonds from which coupons were cut.
6. Face amount of coupons.
7. Exemptions from tax claimed by owner under paragraph C.

For the purpose of identification, such substitute certificates should be numbered consecutively, and corresponding numbers given the original certificates of ownership.

Privilege of Substituting Certificates Extended to Foreign Countries.

The permission here granted will extend to responsible banks, bankers, and collecting agents in foreign countries, through whom collection of such interest coupons is made.

The various substitute certificates hereby authorized will correspond with the form numbers of the ownership certificates detached by the collecting agent, except that the substitute certificates' form numbers will be followed by the letter "a." (See T. D. 1974, amending Arts. 41-46.)

*Normal Tax to be Deducted Before Payment of Interest.
(See T. D. 1974.)*

ART. 41. A debtor whose bonds may be registered, both as to principal and interest, shall deduct the normal tax of 1 per cent from the accruing interest on all bonds before sending out checks for said interest to registered owners or before paying such interest upon interest orders signed by the registered holders of said bonds unless there shall be filed with said debtor or its fiscal agent (not later than 30 days prior to March 1), through whom said interest is customarily paid, the proper certificates claiming exemption from liability for said tax as herein provided, executed—

Claims for Exemption from Tax; by Whom Same May be Filed.

By a citizen or resident of the United States, the bona fide owner of the registered obligations, who may claim exemption under paragraph C, section 2, of the income tax law, or

By corporations, joint-stock companies, associations, or insurance companies organized in the United States, or organizations, associations, fraternities, etc., which are either taxable or exempt from taxation, as provided in paragraph G, subdivision (a), of the act, or

By a bona fide resident and citizen of a foreign country, claiming exemption as such.

Certificates of Ownership to Specify Bonds and Amount of Interest Due.

ART. 42. If the owners of the bonds are individuals who are citizens or residents of the United States, the aforesaid certificates shall accompany the coupons, or, with respect to the interest on registered bonds, shall be filed with payer of said interest, and such certificates shall describe the bonds and show the amount of coupons attached or the amount of interest due such owners on registered bonds and the name and address of the owners, and if registered in names other than the owners such names with addresses shall also be given.

Claim for Exemption Under Paragraph C.

Such certificates shall also show whether the claimants do or do not then claim exemption from taxation at the source, under paragraph C, Articles 9 and 10 (\$3,000, and under certain conditions \$4,000), as to the income represented by such coupons or interest. The certificates will be prepared on Form 1000 and must show the amount, if any, of exemption claimed, the total amount of exemption to which the claimant is entitled, and must be signed by the claimants, who shall use their ordinary business signatures. The certificates shall also show the postoffice and street address of the claimants, the internal revenue district, and the date when signed.

*Certificates May be Signed by Duly Authorized Agents, etc.**Certificates to be Verified by Withholding Agents.*

ART. 43. Duly authorized agents may sign such certificates for the persons for whom they act, and withholding agents, banks, or others, with whom such certificates are filed, if satisfied as to the identity and responsibility of the persons so signing, shall stamp or write on the face of each such certificate, "Satisfied as to identity and responsibility of agent," giving name and address of person thus certifying. Certificates so verified may be accepted by all other persons, firms, or organizations to whom presented, without question.

as to authority of such agent. If the person, firm, or organization first receiving such certificate is not satisfied as to the agent's identity and responsibility, then, in that event, the agent shall furnish evidence of his authority to so act, which will be retained by the person, firm, or organization receiving it, and the certificate of ownership shall be indorsed as above provided.

Tax to be Deducted Before Payment of Interest.

ART. 44. Whenever interest coupons, accompanied by a certificate of an individual who is a citizen or resident of the United States, are presented to a debtor or its withholding agent for payment, or whenever interest is payable to such individual on a bond registered as to both principal and interest, the debtor or its withholding agent shall deduct and withhold the amount of the normal tax, except to the extent that exemption is claimed in the certificate of ownership (Form 1000).

Where the interest to be paid is registered, the same form of certificate shall be used where exemptions are claimed, and it shall be filed with the debtor at least five days before the due date of such interest.

Tax on Interest Payable to Certain Corporations, etc., Not to be Deducted.

ART. 45. If the owners of the bonds are corporations, joint-stock companies, associations, or insurance companies organized in the United States, no matter how created or organized, or organizations, associations, fraternities, etc., which are either taxable or exempt from taxation as provided in paragraph G, subdivision (a) of the act, the debtor is not required to withhold or deduct the tax upon income derived from interest on such bonds, provided coupons or orders for interest from such bonds shall be accompanied by a certificate of the owners thereof certifying to such ownership, which certificates shall be filed with the debtor when such coupons or interest orders are presented for payment.

Certificates of Corporations Claiming Exemption.

Such certificate will be made on Form 1001, and must be signed in the name of the organization (stating its place of business) by the president, secretary, or some other principal officer of the said corporation or organization duly authorized to sign same, and must be properly dated.

Certificates of Nonresident Aliens.

ART. 46. Coupons, or orders for registered interest, payable in the United States, representing the interest on bonds owned by nonresident aliens, must be accompanied by the prescribed certificate (Form 1004), but this certificate may be signed either by the owner or, in behalf of the owner, by a reputable bank or bankers or other responsible collecting agency, certifying to the ownership of the bonds and giving the name and address of the bona fide nonresident and alien owners, and when such certificate is thus attached the normal tax of 1 per cent on such coupons or interest orders need not be withheld at the source by the debtor or collecting agency. Unless such proof of foreign ownership is furnished, the normal tax of 1 per cent should be deducted.

Foreign organizations engaged in business within the United States are subject to the normal tax of 1 per cent per annum upon the amount of net income accruing from business transacted and capital invested within the United States; but said organizations shall be exempt from having any part of their income withheld by a debtor or withholding agent, and claim for such exemption will be made on Form 1018.

Certificates Filed by Partnership, Showing Interest of Individual in Partnership Profits, etc.

ART. 47. Inasmuch as individual members of a partnership are liable for income tax upon their respective interest in the net earnings of such partnership, the partnership may file with the withholding agent a notice signed in the name of the partnership, by a member thereof, claiming a deduction of a specific amount on account of the legitimate ex-

pense incurred in conducting the business of said partnership; and upon receipt of said notice said withholding agent shall not withhold, and shall not be held liable for, the normal tax on the amount of income equal to the amount of deduction claimed in said notice; but in no event shall the total of the amounts claimed, as provided herein, be in excess of the total amount of the actual legitimate annual expenses incurred by said partnership in the conduct of its business. Application for such deduction shall be made on Form 1011. (This article 47 repealed by T. D. 1957.)

Foreign Partnerships, Certificate of Ownership May be Filed by.

ART. 48. Foreign partnerships or firms, all the members of which are both citizens, or subjects, and residents of a foreign country, which are the owners of bonds and mortgages or deeds of trust or other similar obligations, including equipment trust agreements, receivers' certificates, and stocks of corporations, joint-stock companies or associations and insurance companies, organized or doing business in the United States, may file with the debtor or withholding agent, with their coupons or orders for registered interest, or orders for other income derived from property or investments in the United States, a certificate and notice of ownership (Form 1016) setting forth the above facts; and the debtor or withholding agent shall not withhold any part of said income.

Foreign Partnership, Composed of Nonresident Foreigners and Citizens of United States.

ART. 49. Where a foreign partnership or firm is composed of both nonresident foreigners and citizens of the United States, or foreigners residing in the United States or its possessions, the certificate of ownership shall show this fact, and the name and legal address of each member of said partnership who is a citizen of the United States, or who is a foreigner residing in the United States or its possessions, shall be given on the back of said certificate, and no part of

said income shall be withheld. The said certificate and notice of ownership in either case above provided shall be on Form 1014.

Monthly List Return.

ART. 50. Withholding agents are required to file in duplicate a monthly list return (Form 1012) giving a list of all coupon or interest payments made on which the normal tax of 1 per cent was deducted and withheld from interest payments made upon bonds or other similar obligations, and shall show the name and address in full of the owners of the bonds, amount of the income, amount of exemption claimed, amount of income on which withholding agent is liable for tax, and the amount of tax withheld.

Forms 1012a, 1012b, and 1012c are to be used where Form 1012 does not afford sufficient space in which to enter all items.

Summary of Monthly Lists May be Used.

Form 1012d, when necessary to be used, shall be made in duplicate and shall be a summary of the monthly list return, Form 1012, as made in detail by the withholding agent, and the said summary and lists thereto attached when properly filled in and the summary signed and sworn to shall constitute the complete monthly list return of the withholding agent making same as fully as if each list attached to the summary was signed and sworn to separately.

An annual list return (Form 1013) in duplicate is also required to be made by debtors or withholding agents of the normal tax of 1 per cent withheld from interest payments made upon bonds or other similar obligations, and it shall be filed on or before March 1 of each calendar year.

Monthly List to Constitute a Part of the Annual List Return.

ART. 51. The monthly list return in the form as required herein shall constitute a part of the annual list return to be made by debtors or withholding agents, and the debtor or withholding agent will not be required, in making an annual list return of the tax withheld from income de-

rived from interest upon bonds and mortgages or deeds of trust, or other similar obligations of corporations, joint-stock companies, or associations and insurance companies, to again make an itemized list of the amount of tax withheld from each person, but will give in the annual list return the totals of the monthly list return for each month of the year for which annual list return is made.

Certificates to be Forwarded to Collector.

All substitute certificates of collecting agents, authorized by regulations, that are received by debtors or withholding agents will be considered the same as certificates of owners, and in entering same in making monthly list returns debtors or withholding agents will enter the name and address of the collecting agent and the number of the substitute certificate issued in lieu of the original certificate containing the name and address of the owner of the bonds. Until the further ruling on this subject by this department no list return is required to be made of certificates of ownership accompanying coupons or registered interest orders filed with a debtor or withholding agent *when the owners of the bonds are not subject to having the normal tax withheld at the source*, but all such certificates of ownership shall be forwarded by the debtor or withholding agent to the collector of internal revenue for the district, on or before the 20th day of the month succeeding that in which said certificates of ownership were received.

B

INCOME DERIVED FROM INTEREST UPON BONDS, MORTGAGES, ETC., PAID BY FIRST BANK OR COLLECTING AGENCY WHEN CERTIFICATES OF OWNERS ARE NOT FILED.

Interest Coupons or Orders, Not Accompanied by Certificate.

ART. 52. Where the coupons or interest orders are not accompanied by certificates as heretofore prescribed, the first bank, trust company, banking firm, or individual, or collecting agency receiving the coupons or interest orders for

collection, or otherwise, shall deduct and withhold the tax and shall attach to such coupons or interest orders its own certificate (Form 1002), giving the name and address of the owner of, or the person presenting such coupons or interest orders if the owner is not known, with a description of the coupons or interest orders; also setting forth the fact that they are withholding the tax upon them; whereupon the debtor shall not again withhold the tax on said coupons or interest orders, but in lieu thereof shall deliver to the Collector of Internal Revenue the certificate of such bank, trust company, etc., which is withholding such tax money.

Identity of Persons Presenting Interest Coupons to be Established.

Any corporation, collecting agency, or person first receiving from the owner any interest coupons or orders for the collection of registered interest should require the persons tendering such coupons or orders for registered interest to satisfactorily establish their identity.

Monthly and Annual List Returns.

ART. 53. Withholding agents receiving coupons or interest orders not accompanied by certificates of owners are required to file monthly and annual list returns in duplicate.

The required monthly list return (Form 1044) shall give a list of all coupon or interest payments made on which the normal tax of 1 per cent was deducted and withheld and shall show the name and address in full of the owner of, or the person presenting such coupons or interest orders, if the owner is known, amount of the income subject to tax and the amount of tax withheld.

An annual list return (Form 1044a) is also required to be made by such withholding agents, showing the amount of tax withheld during the preceding year on income of this character. This return must be filed on or before the 1st day of March of each calendar year.

The monthly list returns in the form as required herein shall constitute a part of the annual list return to be made, and the withholding agent will not be required, in making an annual list return of the tax thus withheld, to again make an itemized list of the amount of tax withheld from each person, but will give in the annual list return the totals of the monthly list returns for the year for which annual list return is made.

C

INCOME DERIVED FROM COUPONS, CHECKS OR BILLS OF EXCHANGE ON FOREIGN BONDS, MORTGAGES, DIVIDENDS, ETC.

Collection of Coupons, Checks, Bills of Exchange, etc. License to be Obtained from Commissioner of Internal Revenue.

ART. 54. All persons, firms, or corporations undertaking for accommodation or profit (this includes handling either by way of purchase or collection) the collection of coupons, checks, bills of exchange, etc., for or in payment of interest upon bonds issued in foreign countries, and upon foreign mortgages or like obligations, and for any dividends upon stock or interest upon obligations of foreign corporations, associations, or insurance companies engaged in business in foreign countries, are required by law to obtain a license from the Commissioner of Internal Revenue.

Application for License to be Made to Collector of District.

ART. 55. Application for such license (Form 1017) will be made to the collector for the district in which such business is to be carried on. Upon the acceptance of such application the collector will issue to the applicant without cost a license (Form 1010) which will continue in force until revoked or canceled. Blank forms of such license, bearing the facsimile signature of the Commissioner of Internal Revenue, will be furnished collectors on requisition, who will in all cases countersign the same before issuing it to applicant.

Penalty for Failure to Obtain License.

Failure to obtain a license or to comply with regulations is punishable by a fine not exceeding \$5,000 or imprisonment not exceeding one year, or both, in the discretion of the court.

Bond May be Required in Certain Cases.

ART. 56. Where the collector is not sufficiently informed as to the entire responsibility of the applicant, or where in any case he deems it advisable, the Commissioner of Internal Revenue may upon the recommendation of the collector require of the applicant a bond, in duplicate, with satisfactory sureties, in a penal sum at least equal to the estimated amount of tax to be withheld by such applicant during any one year. A form of bond to be given in such cases will be furnished collectors on application for the same. Where licenses are issued without bond, the collector will each year inquire into and satisfy himself of the financial responsibility of the licensee.

License to be Obtained for Branch Offices. Application for License to be Certified to Collector of District in Which Branch Offices Are Located.

ART. 57. When any person, firm, or corporation shall have branch offices and desire to collect foreign interest or dividend income through said branch offices, the application for license or licenses shall be made by the person, firm, or corporation through its principal office for its branch office or offices. Application for licenses in such cases shall be made to the collector of internal revenue for the district in which the home office is located. The names and addresses of the branch offices shall be furnished to the collector in the application of the said principal, and if the requirements of the foregoing regulations have been complied with to the satisfaction of the collector, he shall certify this fact to the collector of internal revenue for the district in which the branch office is located, and the collector to whom this cer-

tification is made shall issue to such branch office a license, as in the case provided in Article 55.

*Normal Tax on Interest Collected to be Withheld by Agent.
Statement as to Tax Withheld to be Indorsed or Appended
to Coupons, Checks, etc.*

ART. 58. The licensed person, firm, or corporation first receiving any such foreign items for collection or otherwise shall withhold therefrom the normal tax of 1 per cent, and will be held responsible therefor. Such licensee shall indorse or stamp on each such coupon, check, or bill of exchange, when practicable, the words "Income tax withheld by" (giving his or their name, address, and date), which shall be sufficient evidence to relieve subsequent holders or purchasers from the duty of also withholding the income tax.

If the size or nature of such coupons, checks, etc., makes it impracticable to make said indorsement thereon, a statement identifying the item on which tax is withheld and bearing said indorsement may be attached thereto with the same effect as if the indorsement was made directly thereon. (Amended T. D. 2023.)

Licensee to Furnish Collector of District with List of Taxes Deducted, etc.

ART. 59. Such licensee shall obtain the names and addresses of the persons from whom such items are received and shall prepare a list of same in duplicate (on Form 1043) and file it with the collector of internal revenue for his district not later than the 20th day of the month next succeeding the month in which such items were paid. The list shall be dated, and shall contain the names and addresses of the taxable persons, the character and amount of income, amount of exemption claimed, amount of income on which withholding agent is liable for tax, and the amount of tax withheld. In addition to the monthly lists the licensee will, on or before the 1st day of March in each year, file with the col-

lector in duplicate a return (Form 1043a), showing the amount of income paid and the amount of tax withheld by him during the preceding year and such other information as the form prescribes.

The monthly list return in the form as required herein shall constitute a part of the annual list return to be made by the licensee as withholding agent, and he will not be required, in making an annual list return of the tax withheld from income described in Article 54, to again make an itemized list of the amount of tax withheld from each person, but will give in the annual list return the totals of the monthly list return for each month of the year for which annual list return is made.

*Claims for Exemption Under Paragraph C May be Filed.
Organizations Exempt from Having Tax Withheld at the Source.*

AET. 60. In the event such coupons, checks, or bills of exchange above mentioned are presented for collection by an individual claiming the benefit of the exemptions allowable under paragraph C (Arts. 9 and 10), such individual shall be permitted to avail himself of the exemption claimed, upon signing on the form heretofore prescribed for coupons payable in the United States, and no tax shall be deducted for the amount of the exemption so claimed; or if such items are presented by corporations, joint-stock companies, or associations and insurance companies, organized in the United States, the form of certificate heretofore prescribed for such organizations shall be used, and in such instances no tax shall be deducted.

Certificates of Exemption to be Forwarded with Monthly List Returns to Collector.

AET. 61. In both instances the licensee first receiving such items shall retain such certificates for delivery with the list aforesaid, and with respect to said coupons, checks, or bills of exchange, said licensee shall attach thereto (iden-

tifying the items) or indorse or stamp thereon the words "Income tax exemption claimed through" (giving name and address of licensee), which shall be sufficient evidence to relieve subsequent holders or purchasers from the duty of also withholding the tax thereon.

The provisions for collection of the tax on foreign obligations herein set forth includes the interest upon all foreign bonds, even though the coupons may, at the option of the holder, be payable in the United States as well as in some foreign country.

Licensee to Keep Records.

ART. 62. All persons licensed shall keep their records in such manner as to show from whom every such item has been received, and such records shall be open at all times to the inspection of internal revenue officers.

D

**INCOME DERIVED FROM WAGES, RENT, INTEREST, OR OTHER
FIXED AND DETERMINABLE GAINS, PROFITS, AND INCOME.**

Wages, Salaries, Rents, etc.

ART. 63. The above title includes all income derived from salaries, wages, rents, royalties, interest, taxable annuities, emoluments, or other fixed and determinable annual gains, profits, and income of another person. ("Income derived from interest upon bonds and mortgages, or deeds of trust, or other similar obligations of corporations, etc.," and "Income derived from coupons, checks, or bills of exchange on foreign bonds, mortgages, dividends, etc.," which have been covered by regulations under such titles, are not to be included here.)

Withholding Agents to Deduct and Pay Tax.

ART. 64. Copartnerships, companies, corporations, joint-stock companies or associations, insurance companies, in whatever capacity acting, including lessees, mortgagors of

real or personal property, trustees acting in any trust capacity, executors, administrators, agents, receivers, conservators, employers and all officers and employees of the United States, hereinafter referred to as "debtors" or withholding agents, having the control, receipt, custody, disposal, or payment of income as described in Article 63, shall deduct and withhold from such annual gains, profit, and income, when the same shall have reached an aggregate amount in excess of \$3,000, such sum as will be sufficient to pay the normal tax of 1 per cent imposed by law, and shall pay the taxes so withheld to the collector of internal revenue for the district in which the said withholding agent resides or has his, her, or its principal place of business.

Tax to be Withheld on Periodical Payments When They Aggregate \$3,000. Exemption Under Paragraph C May be Claimed.

ART. 65. A withholding agent who pays monthly, or periodically during the year, interest, rents, salaries, wages, etc., shall not withhold the said tax until such time as the interest, rents, salaries, wages, etc., shall have reached an aggregate amount in excess of \$3,000. When such amount has been reached, such agent shall withhold the tax on the whole \$3,000 and any excess thereof, unless the person to whom the income is due files a notice claiming exemption under paragraph C (as provided in Art. 33 a), in which case the withholding agent shall withhold only the tax on the income in excess of said exemption of \$3,000 or \$4,000 (as the case may be), and the tax so withheld shall be paid as required by law.

Deductions Under Paragraph B May be Claimed.

ART. 66. In case the person to whom the income is due is entitled to any deductions under paragraph B, he may avail himself of such deductions by filing with the withholding agent Form 1008, as provided in Article 33(b), in which

case the withholding agent will only withhold the tax on such income in excess of the deductions claimed on said form.

Tax Not to be Withheld by Banks on Interest Paid on Deposits.

ART. 67. Banks, bankers, trust companies, and other banking institutions receiving deposits of money, are not required to withhold at the source the normal income tax of 1 per cent on interest paid, or accrued, or accruing to depositors, whether on open accounts or on certificates of deposit; but all such interest, whether paid or accrued and unpaid, must be included in the annual income return of the person entitled to receive such interest, whether on open account or on the certificate of deposit.

Tax to be Withheld on Payment of Interest Notes, or Notes Given for Rent.

ART. 68. When a note shall have been given in payment of interest, rents, or other income accruing after March 1, 1913, the maker of the note, as the "debtor" and as the "source" where the income originates, is required, in paying such note, to withhold the normal tax of 1 per cent on the entire amount of the note, if in excess of \$3,000, unless claim for exemption or deductions under Article 33(a) or 33(b) is filed, in which case the said tax shall be withheld only on the amount of said note in excess of the exemption or deductions so claimed.

Purchasers of Interest Notes as to Which Tax Has Not Been Withheld.

If any person who has purchased or discounted any such notes omitted, in acquiring them from previous holder, to make a deduction or allowance for said tax, he can look for relief only to the person from whom the notes were obtained, as the "debtor," the maker of said notes, is required to deduct, withhold, and pay to the collector of internal revenue the amount of the normal tax of 1 per cent which may be due thereon.

Annual List Return by Withholding Agents.

ART. 69. Withholding agents shall make an annual list return (Form 1042), in duplicate, to the collector of internal revenue for the district in which the withholding agent resides or has his principal place of business on or before the 1st day of March in each year, showing the names and addresses of persons who have received incomes in excess of \$3,000, on which the normal tax of 1 per cent has been deducted and withheld during the preceding year. This return must be accompanied by all forms presented claiming exemptions and deductions.

E**FIDUCIARIES.**

(See T. D. 1943 and T. D. 1961.)

Guardians, etc., as Fiduciary Agents, to Deduct Tax. Notice of Deduction to be Filed with Other Withholding Agents.

ART. 70. Guardians, trustees, executors, administrators, agents, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity, hereinafter referred to as fiduciary agents, who hold in trust an estate of another person or persons, shall be designated the "source" for the purpose of collecting the income tax, and by filing notice with other debtors or withholding agents said fiduciary shall be exempt from having any income, due to them as such, withheld for any income tax by any other debtor or withholding agent. Other debtors or withholding agents upon receipt of such notice shall not withhold any part of such income from said fiduciary and will not in such case be held liable for normal tax of 1 per cent due thereon. The form of notice to be filed with the debtor or withholding agent by fiduciary will be on Form 1015. Where such exemption is not claimed, notice thereof on Form 1019 should be filed with the withholding agent.

Annual Return to be Made to the Collector of the District.

ART. 71. Fiduciaries shall, on or before March 1 of each year, make and render a return of the income coming into their custody or control and management from each trust or estate when the annual interest of any beneficiary in said trust or estate is in excess of \$3,000. This return (Form 1041) must be filed with the collector for the district in which the fiduciary resides or has his principal place of business, and shall contain an itemized statement of the gross income and deductions claimed.

Notice of failure to file return as required shall be served upon the fiduciary. (See Art. 18.)

The entries on the first page of Form 1041 in column headed "Amount of income paid or accrued to beneficiaries" should not include their respective shares of income derived from dividends on the stock or from the net earnings of corporations, joint-stock companies, etc., subject to like tax or the income on which the normal tax of 1 per cent has been deducted and withheld at the source by the debtor or the prior withholding agent, as these two items of income are treated as deductions in determining the amount of income subject to tax for which the fiduciary as withholding agent has to account.

When the share of any beneficiary, therefore, in the amount stated on line 3 of the first page of said return is in excess of \$3,000, return must be made.

*Return to Include Only Income Accruing from Trust,
Unless Otherwise Authorized by Beneficiary.*

ART. 72. As each such fiduciary acts solely in behalf of the beneficiaries of the trust, the annual return required in such cases has reference only to the income accruing and payable through said fiduciary, and not to the income of the beneficiary derived from other sources. If, however, such fiduciary is legally authorized to act for such beneficiary as agent or attorney in fact, he may in such case also make for the beneficiary the personal annual return (Form 1040) required by law.

*Annual Return to Include List of Beneficiaries, Showing
Tax Withheld from Each.*

ART. 73. The annual return of the fiduciary shall contain a list of the name and full address of each beneficiary and the share of said income to which each may be entitled. There must also be entered opposite the name of each beneficiary the amount of exemption, if any, claimed by him, the amount of income on which the fiduciary is liable for tax, and the amount of tax withheld, and the said return shall be signed and sworn to by the fiduciary, if an individual, making same, and his full address must be stated. If the fiduciary is an organization, the return shall be signed and sworn to by the president, secretary, or treasurer of said organization.

*Return to be Made of Undistributed Income Accruing During
the Year. Claim for Exemption of Undistributed Income.
Paragraph C.*

ART. 74. Fiduciaries having control of any portion of an annual income accruing during the year, but not distributed or paid to the beneficiaries during the year, shall, in rendering their annual return (Form 1041), give the name and address of each of said beneficiaries having a distributive interest in said income, and shall furnish all information called for in such returns. The fiduciary shall in all such cases withhold and pay to the collector, as provided by law, the normal tax of 1 per cent upon the distributive interest of each of said beneficiaries when in excess of \$3,000, the same as if said income was actually distributed and paid. Exemption under paragraph C, however, may be claimed by the beneficiary or his legal representative by filing his claim for exemption with the fiduciary agent.

*Tax Withheld on Undivided Income Not to be Again
Withheld When Income is Distributed.*

ART. 75. When the normal tax on undivided annual net income has been so withheld, such tax shall not be again withheld when such portion of the income is actually distributed and paid to said beneficiary.

PART 3

RELATING TO THE INCOME TAX IMPOSED BY SECTIONS 2 AND 4 OF THE ACT OF OCTOBER 3, 1913, ON CORPORATIONS, JOINT-STOCK COMPANIES OR ASSOCIATIONS, AND INSURANCE COMPANIES.

Organizations Subject to Tax. One Per Cent on Entire Net Income.

ART. 76. Under the provisions of sections 2 and 4 of the act of October 3, 1913, every corporation, joint-stock company or association, and every insurance company organized in the United States, no matter how created or organized, except those specifically exempted, shall be subject to pay annually an income tax of 1 per centum per annum upon the entire net income arising or accruing from all sources during the preceding calendar or fiscal year, as the case may be. Certain exceptions as to taxability will be noted specifically hereinafter.

Foreign Corporations Subject to the Tax.

ART. 77. A similar tax shall be levied, assessed against, and paid annually by corporations, joint-stock companies or associations, and insurance companies organized, authorized, or existing under the laws of any foreign country upon the amount of net income accruing from business transacted and capital invested within the United States during such year.

Corporations Defined.

ART. 78. "Corporation" or "corporations," as used in these Regulations, shall be construed to include all corporations, joint-stock companies or associations, and all insurance companies coming within the terms of the law, and such organizations will hereinafter be referred to as "corporations."

Associations, Real Estate Trusts, Etc., Subject to Tax.

ART. 79. It is immaterial how such corporations are created or organized. The terms "joint-stock companies" or

"associations" shall include associates, real estate trusts, or by whatever name known, which carry on or do business in an organized capacity, whether organized under and pursuant to State laws, trust agreements, declarations of trusts, or otherwise, the net income of which, if any, is distributed, or distributable, among the members or share owners on the basis of the capital stock which each holds, or, where there is no capital stock, on the basis of the proportionate share of capital which each has invested in the business or property of the organization, all of which joint-stock companies or associations shall, in their organized capacity, be subject to the tax imposed by this act.

Corporations Required to Make Returns. Mutual Telephone and Mutual Insurance Companies Not Exempt.

AET. 80. Every corporation not specifically enumerated as exempt shall make the return of annual net income required by law whether or not it may have any income liable to tax, or whether or not it shall be subordinate to or controlled by another corporation. Mutual telephone companies, mutual insurance companies, and like organizations, although local in character, and whose income consists largely from assessments, dues, and fees paid by members, do not come within the class of corporations specifically enumerated as exempt. Their status under the law is not dependent upon whether they are or are not organized for profit. Not coming within the statutory exemption, all organizations of this character will be required to make returns of annual net income, and pay any income tax thereby shown to be due. For this purpose the surplus of receipts of the year over expenses will constitute the net income upon which the tax will be assessed.

A railroad or other corporation which has leased its properties in consideration of a rental equivalent to a certain rate of dividends on its outstanding capital stock and the interest on the bonded indebtedness, and such rental is paid by the lessee directly to the stock and bond holders, should, never-

theless, make a return of annual net income showing the rental so paid as having been received by the corporation.

Interest Deduction by Corporations Operating Leased or Purchased Lines.

ART. 81. A railroad company operating leased or purchased lines shall include all receipts derived therefrom, and, if bonded indebtedness of such lines has been assumed, such operating company may deduct the interest paid thereon to an amount not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year.

Lessee Corporations Not to Include Capital Stock or Indebtedness of Lessor Corporations.

ART. 82. Corporations operating leased lines should not include the capital stock of the lessor corporations in their own statement of capital stock outstanding at the close of the year. The indebtedness of such lessor corporations should not be included in the statement of the indebtedness of the lessee unless the lessee has assumed the same. Each leased or subsidiary company will make its own separate return, accounting for therein all income which it may have received by way of dividends, rentals, interest, or from any other source.

Foreign Corporations Having Branch Offices in United States to Designate Principal Office.

ART. 83. A foreign corporation having several branch offices in the United States should designate one of such branches as its principal office and should also designate the proper officers to make the required return.

Corporations Organized During Year to Make Returns.

ART. 84. A corporation organized during the year should render a sworn return on the prescribed form, covering that portion of the year (calendar or fiscal) during which it was engaged in business or had an income accruing to it.

Corporations Going Into Liquidation.

AET. 85. Corporations going into liquidation during any tax period may, at the time of such liquidation, prepare a "final return" covering the income received or accrued to them during the fractional part of the year during which they were engaged in business, and immediately file the same with the collector of the district in which the corporations have their principal places of business.

Limited Partnerships.

AET. 86. Limited partnerships are held to be corporations within the meaning of this act and these regulations, and in their organized capacity are subject to the Income Tax as corporations.

Corporations Exempt from Tax.

AET. 87. The act specifically enumerates and exempts from its provisions and requirements, labor, agricultural or horticultural organizations, mutual savings banks not having a capital stock represented by shares, fraternal beneficiary societies, orders, or associations operating under the lodge system, or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations, and dependents of such members, domestic building and loan associations, cemetery companies organized and operated exclusively for the mutual benefit of their members, any and all corporations or associations organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of whose net income inures to the benefit of any private stockholder or individual, business leagues, chambers of commerce, or boards of trade not organized for profit, no part of the net income of which inures to the benefit of the private stockholder or individual, and civic leagues or similar organizations not organized for profit, but operated exclusively for the promotion of social welfare.

*Domestic Building and Loan Associations Defined.
Mutuality Essential.*

Domestic building and loan associations are among those enumerated as exempt from the requirements of the law. A domestic building and loan association is held to be one organized under and pursuant to the laws of the United States, or of a State or Territory thereof, or under the laws applicable to Alaska or the District of Columbia. Mutuality in operation and in the distribution of profits and benefits is essential to exemption. Therefore, in order to come within the exempted class such associations must not only be "Domestic," as defined, but they must be organized and operated exclusively for the mutual benefit of the members; that is, all the profits and benefits provided for in the articles of association and by-laws must be ratably distributed among all members regardless of the kind of stock held, according to the amount of money they have on deposit. An association issuing different classes of stock upon which different rates of interest or dividends are guaranteed or paid, does not come within the exempted class.

Corporations Must Establish Their Right to Exemption.

ART. 88. All corporations and all beneficiary societies enumerated above shall, by affidavit, or otherwise, at the request of the Collector or Commissioner of Internal Revenue, establish their right to the exemption provided, in which case it will not be sufficient to merely declare that they are exempt, but they must show the character and purpose of the organization, the manner of distributing the net income, if any, or that none of the net income inures to the benefit of any private stockholder or individual. In the absence of such a showing, such organizations may, at any time, be required to make returns of annual net income or disclose their books of account to a revenue officer for examination in order that the status of the company may be determined.

Society or Association Subject to Exemption Defined.

ART. 89. A society or association "operating under the lodge system" is considered to be one organized under a charter, with properly appointed or elected officers, with an adopted ritual or ceremonial, holding meetings at stated intervals, and supported by fees, dues, or assessments.

Cemetery Companies Organized for Mutual Benefit of Their Members, Exempt.

ART. 90. Cemetery companies organized and operated exclusively for the mutual benefit of their members are exempt. The provisions of the law clearly indicate that companies which operate cemeteries for profit are liable to the tax. The status of cemetery associations under the law will, therefore, depend upon the character and purpose of the organization and what disposition is made of the income.

Corporations Whose Status as to Exemption is in Doubt Must Make Return.

ART. 91. Any corporation, concerning whose status under the law there is any doubt, or which does not clearly come within one or another of the classes of those specifically enumerated as exempt, should file a return (in blank if desired) and attach thereto a statement setting out fully the nature and purpose of the organization, the source of its income, and what disposition is made of it, and particularly of any surplus.

Coöperative Dairies Not Issuing Stock and Allowing Patrons Dividends, Exempt.

ART. 92. Coöperative dairies not issuing stock and allowing patrons dividends based on butter-fat in milk furnished are not liable. In such case the "dividends" are the purchase price of the raw material furnished.

When Income from Public Utilities is Not Taxable. Persons or Corporations Not Exempt.

ART. 93. The income derived from any public utility or from the exercise of any essential governmental function,

which income accrues to any State, Territory, the District of Columbia, or any political subdivision of a State, Territory, or the District of Columbia, and any income accruing to the Government of the Philippine Islands, or to Porto Rico, shall not be subject to the tax imposed by this act. In cases wherein any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory shall have, prior to the passage of this act, contracted in good faith with any person or corporation to acquire, construct, operate, or maintain a public utility, no income tax pursuant to this act shall be levied upon the income derived from the operation of such public utility, so far as the assessment and payment of such tax will impose a loss or burden upon such State, Territory, District of Columbia, or political subdivision. But the person or corporation is not relieved from the payment of the tax upon that portion of the income accruing to him, or it, under such contract.

Partnerships Not Taxable as Corporations.

ART. 94. Ordinary copartnerships are not, as such, subject to the tax imposed by this act, but the individual members of any such partnership are liable for income tax only in their individual capacity on their respective shares of the earnings of such partnership, whether such earnings be distributed or not.

What Constitutes Paid-up Capital Stock.

ART. 95. Full amount of stock, as represented by the par value of the shares issued, is to be regarded as the paid-up capital stock, except when such stock is assessable on account of deferred payments, or payable in installments, in which case the amount actually paid on such shares will constitute the actual paid-up capital stock of the corporation.

Gross Income, How Determined.

ART. 96. The following definitions and rules are given for determining the gross income of various classes of corporations:

Gross Income of Banks and Other Financial Institutions.

Gross income of banks and other financial institutions consists of the total revenue derived from the operation of the business, including income, gains, or profits from all other sources, as shown by the entries on the books of account, within the calendar or fiscal year for which the return is made.

Gross Income of Insurance Companies.

AET. 97. Gross income of insurance companies consists of the total revenue derived from the operation of the business, including income, gains, or profits from all other sources, as shown by the entries on the books of account within the calendar or fiscal year for which the return is made, except as modified by the express exemptions of the articles which apply to mutual fire, mutual marine, and life insurance companies.

Gross Income of Mutual Fire Insurance Companies.

AET. 98. Mutual fire insurance companies which require their members to make premium deposits to provide for losses and expenses shall not return as gross income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

Mutual Marine Insurance Companies.

AET. 99. Mutual marine insurance companies may include in their deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, such amounts and interest having been included in gross income.

Deferred Dividends Deductible, When.

ART. 100. Life insurance companies are authorized to omit from gross income such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to the policyholder or treated as an abatement of his premium. In so far as "deferred dividends" payable at a stated period represent "a portion of any actual premium received," such deferred dividends may be included in the amounts to be omitted from gross income for the year in which they were actually paid back, credited to the policyholder, or applied as an abatement of premium. In the case of dividends credited or apportioned annually to the policyholder, only the aggregate amount so actually credited or apportioned during the premium-paying period, and not any accretions thereto, can be excluded from gross income. In the case of whole-life or five-year distribution policies, deferred dividends may be excluded from gross income to the extent that they are paid back, or credited to the insured, or used as an abatement of his annual premiums.

Gross Income of Insurance Companies, to Include What.

ART. 101. Gross income of insurance companies, as defined above, will include net premium income as reported to the State insurance departments, except the foregoing items specifically exempted in the act, and, in the case of life insurance companies, surrender values applied in any manner, consideration for supplementary contracts involving and not involving life contingencies, and all other income, gains, or profit as shown by the books of account.

Consideration for Supplementary Contracts.

ART. 102. Applied surrender values and consideration for supplementary contracts not involving life contingencies included in income will, of course, be deducted as payments under policy contracts, but for convenience in verifying the returns these items should appear in the return in both gross income and deductions.

Supplementary Statement to Accompany Returns.

ART. 103. All insurance companies should include and attach to their returns a supplementary statement showing, for life companies, the aggregate of items "of such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder within such year"; in the case of mutual fire insurance companies a statement showing "any portion of the premium deposits returned to their policyholders"; and in the case of mutual marine companies "amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof," which are, or may be, omitted from gross income. (For authorized deductions, on account of losses, etc., see Arts. 113 and 147.)

Gross Income of Manufacturing Companies.

ART. 104. Gross income of manufacturing companies shall consist of the total sales of manufactured goods during the year covered by the return, increased or decreased by the gain or loss as shown by the inventories of finished and unfinished products, raw material, etc., at the beginning and end of the year. To this amount should be added the income, gains, or profits from all other sources as shown by the books of account.

Gross Income of Mercantile Corporations.

ART. 105. Gross income of mercantile companies shall include the total merchandise sales during the year, increased or decreased by the gain or loss as shown by the inventories of merchandise at the beginning and end of the year for which the return is made; to this amount should be added the income, gains, or profits derived from all other sources as shown by the books of account.

Gross Income of Miscellaneous Companies.

ART. 106. Gross income of miscellaneous corporations consists of the total revenue derived from the operation and management of the business and property of the corporation making the return, together with all amounts of income, including the income, gains, or profits from all other sources as shown by the books of account.

Definition of Gross Income.

ART. 107. It will be noted from these definitions that the gross income embraces not only the operating revenues, but also income, gains, or profits from all other sources, such as rentals, royalties, interest, and dividends from stock owned in other corporations, and appreciation in values of assets, if taken up on the books of account as gain; also profits made from the sale of assets, investments, etc.

Income Derived from Sale of Capital Assets.

ART. 108. For the purpose of determining the income resulting from the sale of capital assets and the amount to be accounted for as income under this act, there shall be included any and all profit resulting from such sale and which may be apportioned to the period during which the Corporation Tax Law (sec. 38, act of August 5, 1909) was in force and effect, which was not returned as income during that period.

Ascertaining Net Income from the Sale of Capital Assets.

ART. 109. In ascertaining net income derived from the sale of capital assets, if such assets were acquired subsequent to January 1, 1909, the difference between the selling price and the buying price shall constitute an item to be added to or subtracted from gross income according to whether the selling price was greater or less than the buying price. If the capital assets were acquired prior to January 1, 1909, the amount of profit or loss representing the difference between the selling and buying price is to be prorated to de-

determine the proportion of the gain or loss arising subsequent to January 1, 1909, and the proportionate part belonging to the years subsequent to January 1, 1909, shall be added to or deducted from the gross income for the year in which the sale was made.

Profit or Loss Arising from the Sale of Such Assets.

ART. 110. For the purpose of determining the profit or loss arising from the sale of such assets, there shall be added to the price actually realized from the sale any amount which has heretofore been set aside and deducted from gross income by way of depreciation since January 1, 1909, which has not been paid out in making good such depreciation on the property sold. (Amended T. D. 2077.)

Changes in Book Value of Assets.

ART. 111. In the case of changes in book values of capital assets resulting from a reappraisal of property, the consequent gains or losses shall be computed for the return in the manner prescribed above in the case of the sale of capital assets.

Result of Annual Adjustment of Values to be Shown in Return.

In cases wherein there is an annual adjustment of book values of securities, real estate and like assets, and the increases and decreases in values, thus indicated, are taken up on the books and reflected in the profit and loss account, such readjusted values will be taken into account in making the return of annual net income, and no prorating will be required. If such adjustment had been made annually prior to March 1, 1913, the book value of the assets at that date will be taken as the basis for determining gain or loss resulting from subsequent sale, maturity, or adjustment. The adjustment referred to will comprehend assets which have increased in value as well as those which have decreased.

Where Corporations Are Engaged in More Than One Class of Business.

ART. 112. Where a corporation is engaged in carrying on more than one class of business, gross income derived from the different classes of business shall be ascertained according to the definitions above, and which are applicable thereto.

Net Income, How Ascertained.

ART. 113. The net income shall be ascertained by deducting from the gross amount of the income of such corporation received within the year from all sources:

Ordinary and Necessary Expenses.

First. All the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property.

Loss Sustained Within the Year. Depreciation.

Second. All losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any, and in the case of mines, a reasonable allowance for depletion of ores and all natural deposits, not to exceed 5 per centum of the gross value at the mine of the output for the year for which the computation is made; and in the case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds, and the sums other than dividends paid within the year on policy and annuity contracts, except as provided in the cases of mutual fire, mutual marine, and life insurance companies.

Interest Accrued and Paid Within the Year.

Third. The amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding one-half of the sum of its interest-bearing

indebtedness and its paid-up capital stock outstanding at the close of the year, or if no capital stock, on the amount of its indebtedness not exceeding the amount of capital employed in the business at the close of the year.

Interest on Indebtedness Secured by Collateral.

Provided, That in case of indebtedness wholly secured by collateral the subject of sale in ordinary business of such corporation, joint-stock company, or association, the total interest secured and paid by such company, corporation, or association within the year on any such indebtedness may be deducted as a part of its expense of doing business.

Tax Paid on Guaranteed Bonds Not Deductible.

Provided further, That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed; and in the case of a bank, banking association, loan or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company.

Taxes Paid Within the Year.

Fourth. All sums paid within the year for taxes imposed under the authority of the United States, or any State or Territory thereof, or imposed by the government of any foreign country.

General Expenses.

ART. 114. Expenses of operation and maintenance shall include all expenditures for material, labor, fuel, and other items entering into the cost of the goods sold or inventoried at the end of the year, and all other expenses incurred in the operation of the business except such as are required by the act to be segregated in the return.

Cost of Buildings on Leased Grounds.

ART. 115. The cost of erecting permanent buildings on ground leased by a company is a proper deduction as a rental charge, provided such buildings are left on the ground at the expiration of the lease as a part of the rental payment. In such case the cost will be prorated according to the number of years constituting the term of the lease and the annual deduction will be made accordingly.

Expense, Foreign Steamship Companies.

ART. 116. General expenses, such as coal, ship stores, etc., of foreign steamship companies, shall be prorated as provided in the act for interest deductions in the case of foreign corporations.

Commissions to Salesmen Paid in Stock.

ART. 117. Commissions allowed salesmen, paid in stock, may be deducted as expense if so charged on books at the actual value of such stock.

Additions and Betterments.

ART. 118. Amounts expended in additions and betterments which constitute an increase in capital investment are not a proper deduction.

Compensation Based on Stockholding Not Deductible.

ART. 119. Amounts paid as compensation or additional compensation to officers or employees, which amounts are based upon the stockholdings of such officers or employees, are held to be dividends, and although paid in lieu of salaries or wages, are not allowable deductions from gross income, for the reason that dividends are not deductible.

Gifts, Pensions, or Gratuities Not Deductible.

ART. 120. Amounts paid for pensions to retired employees, or to their families, or others dependent upon them, or on account of injuries received by employees, are proper deductions as "ordinary and necessary expenses"; gifts or

gratuities to employees in the service of a corporation are not properly deductible in ascertaining net income.

Donations Which Are Deductible.

ART. 121. Donations made for purposes connected with the operation of the property when limited to charitable institutions, hospitals, or educational institutions, conducted for the benefit of its employees, or their dependents, shall be a proper deduction for ordinary and necessary expenses.

Reserves for Insurance.

ART. 122. Funds set aside by a corporation for insuring its own property are not a proper deduction, but any loss actually sustained and charged to such fund may be deducted.

Materials and Supplies.

ART. 123. In ascertaining expenses proper to be included in the deductions to be made under the item of "Expenses," corporations carrying materials and supplies on hand for use should include in such expenses the charges for materials and supplies only to the amount that the same are actually disbursed and used in operation and maintenance during the year for which the return is made.

Losses Sustained During the Year.

ART. 124. The deduction for losses must be losses actually sustained during the year and not compensated by insurance or otherwise. It must be based upon the difference between the cost value and salvage value of property or assets, including in the latter value such amount, if any, as has, in the current or previous years, been set aside and deducted from gross income by way of depreciation, as elsewhere defined, and has not been paid out in making good such depreciation.

Bad Debts Charged Off.

ART. 125. Bad debts, if so charged off the company's books, during the year, are proper deductions. But such debts, if subsequently collected, must be treated as income.

Reserves Not Deductible.

ART. 126. Reserves to take care of anticipated or probable losses are not a proper deduction from gross income.

Loss Due to Removal of Buildings.

ART. 127. Loss due to voluntary removal of buildings, etc., incident to improvements is either a proper charge to the cost of new additions or to depreciation already provided, as the facts may indicate, but in no case is it a proper deduction in determining net income, except as it may be reflected in the reasonable amount allowable as a deduction for depreciation of the new building. Any loss claimed because of the voluntary removal of a building is presumed to have been covered by previous depreciation charges; otherwise the amount of such loss will constitute a part of the cost of the new building.

Losses from Sale of Capital Assets.

ART. 128. All losses claimed arising from sale of capital assets should be arrived at in the manner prescribed in Article 109, defining gains arising from sale of capital assets.

Depreciation Defined. Depreciation, How Determined.

ART. 129. The deduction for depreciation should be the estimated amount of the loss, accrued during the year to which the return relates, in the value of the property in respect of which such deduction is claimed, that arises from exhaustion, wear and tear, or obsolescence out of the uses to which the property is put, and which loss has not been made good by payments for ordinary maintenance and repairs deducted under the heading of expenses of maintenance and operation. This estimate should be formed upon the assumed life of the property, its cost, and its use. Expenses paid in any one year in making good exhaustion, wear and tear, or obsolescence in respect of which any deduction for depreciation is claimed must not be included in the deduction for expense of maintenance and operation of the

property, but must be made out of accumulated allowances, deducted for depreciation in current and previous years.

Depreciation Deductible, How Treated.

ART. 130. The depreciation allowance, to be deductible, must be, as nearly as possible, the measure of the loss due to wear and tear, exhaustion, and obsolescence, and should be so entered on the books as to constitute a liability against the assets of the company, and must be reflected in the annual balance sheet of the company. The annual allowance deductible on this account should be such an amount as that the aggregate of the annual allowances deducted during the life of the property with respect to which it is claimed will not, when the property is worn out, exhausted, or obsolete, exceed its original cost.

Incidental Repairs.

ART. 131. Incidental repairs which neither add to the value of the property nor appreciably prolong its life, but keep it in an operating condition, may be deducted as expenses.

Depreciation Reserve.

ART. 132. Depreciation set up on the books and deducted from gross income cannot be used for any purpose other than making good the loss sustained by reason of the wear and tear, exhaustion, or obsolescence of the property with respect to which it was claimed. If it develops that an amount has been reserved or deducted in excess of the loss by depreciation, the excess shall be restored to income and so accounted for.

Diversion of Depreciation Reserve.

ART. 133. If any portion of the depreciation set up is diverted to any purpose other than making good the loss sustained by reason of depreciation, the income account for the year in which such diversion takes place must be correspondingly increased.

Shrinkage in Book Values.

ART. 134. Depreciation in book values of capital assets shall be treated in the return in the manner prescribed in the case of loss from the sale of capital assets (Art. 109), but amounts arbitrarily charged off will not be allowed as deductions except so far as they represent an actual shrinkage in values which may be determined to have taken place during the year for which the return is made.

Amortization of Bonds. Loss to Be Prorated.

ART. 135. Where a corporation holds bonds which were purchased at a rate above par and said corporation shall proportionately reduce the value of those bonds on its books each year so that the book value shall be the redemption value of the bonds when such bonds become due and payable, the return of annual net income of the corporation holding such bonds may show the depreciation on account of amortization of such bonds. The requirement is, however, that the amount carried to the amortization account each year shall be equitably proportioned with respect to the difference between the purchase price and the maturing value and the number of years to elapse until the bonds become due and payable. With respect to bond issues where such bonds are disposed of for a price less than par and are redeemable at par, it is also held that because of the fact that such bonds must be redeemed at their face value, the loss sustained by reason of their sale for less than their face value may be prorated by the issuing corporation in accordance with the life of the bond. (Amended 2005, 2130, 2161.)

Good Will.

ART. 136. "Good will" represents the value attached to a business over and above the value of the physical property, and is such an entirely intangible asset that no claim for depreciation in connection therewith can be allowed.

ART. 137. An allowance for depreciation of patents will be made on the following basis:

Depreciation on Patents. How Determined.

The deduction claimed for exhaustion of the capital assets as represented by patents to be made in the return of annual net income of a corporation for any given year shall be one-seventeenth of the actual cost of such patents reduced to a cash basis. Where the patent has been secured from the Government by a corporation itself, its cost would be represented by the various Government fees, cost of drawings, experimental models, attorneys' fees, etc. Where the patent has been purchased by the corporation for a cash consideration, the amount would represent the cost. Where the corporation has purchased a patent and made payment therefor in stocks or other securities, the actual cash value of such stocks or other securities at the time of the purchase will represent the cost of the patent to the corporation.

Deduction in Case of Obsolescence of Patents.

ART. 138. With respect to the depreciation of patents, one-seventeenth of the cost is allowable as a proper deduction each year until the cost of the patent has been returned to the corporation. Where the value of a patent has disappeared through obsolescence or any other cause and the fact has been established that the patent is valueless, the unreturned cash investment remaining in the patent may be claimed as a total loss and be deducted from gross income in the return of annual net income for the year during which the facts as to obsolescence or loss shall be established, such unreturned cash value to be fixed in accordance with the proportion that the number of years which the patent still has to run bears to the full patent period of 17 years.

Depreciation of Timber Land.

ART. 139. Corporations owning tracts of timber lands and removing therefrom and selling or otherwise disposing of the timber will be permitted to deduct from their gross income on account of depreciation or depletion an amount representing the original cost of such timber, plus any carrying

charges that may have been capitalized or not deducted from income. The purpose of the depreciation or depletion deduction is to secure to the corporation, when the timber has been exhausted, an aggregate amount which, plus the salvage value of the land, will equal the capital actually invested in such timber and land.

Deductions to Cease, When.

ART. 140. When an amount sufficient to return this capital has been secured through annual depreciation deductions no further deduction on this account shall be allowed. For the purpose of increasing the deduction on this account no arbitrary increase in values shall be made, unless such increase in value shall be returned as income for the year in which the increase in value was taken up on the books.

Depreciation of Natural Deposits.

ART. 141. The depreciation of coal, iron, oil, gas, and all other natural deposits must be based upon the actual cost of the properties containing such deposits. In no case shall the annual deduction on this account exceed 5 per cent of the gross value at the mine (well, etc.) of the output for the year for which the computation is made.

Definition of "Gross Value" at the Mine.

ART. 142. The term "gross value at the mine," as used in paragraphs B and G of section 2 of the act of October 3, 1913, prescribing a limit to the amount which may be deducted in the return of individuals and corporations as depreciation in the case of mines, is held to mean the market value of ore, coal, crude oil, and gas at the mine or well, where such value is established by actual sales at the mine or well; and in case the market value of the product of the mine or well is established at some place other than at the mine or well, or on the basis of the bullion or metallic value of the ore, then the gross value at the mine is held to be the value of the ore, coal, oil, or gas sold, or of the metal produced, less transportation, reduction, and smelting charges.

Rate of Deduction to Be Reduced, When.

If the rate of 5 per cent per annum shall return to the corporation its capital investment prior to the exhaustion of the deposits, the rate on which the annual deduction for depletion of deposits is based must be lowered in accordance with the estimated number of years it will take to exhaust the estimated reserves.

Deduction to Cease, When.

In case the reserves shall be in excess of the estimates, no further deduction on account of depletion shall be made where the capital investment has been returned to the corporation.

Depreciation of Plant, etc.

ART. 143. In addition to the deduction to measure the loss due to depletion, the corporation will be allowed the usual depreciation of its machinery, equipment, etc., such depreciation to be determined on the basis of the cost and estimated life of the property with respect to which the depreciation is claimed.

Corporations Leasing Oil or Gas.

ART. 144. Corporations leasing oil or gas territory shall base their depletion deduction upon the cost of the lease, and not upon the estimated value, in place, of the oil or gas.

Corporations Operating Mines.

ART. 145. Corporations operating mines (including oil or gas wells) upon a royalty basis only cannot claim depreciation because of the exhaustion of the deposits.

Unearned Increment.

ART. 146. Unearned increment will not be considered in fixing the value on which depreciation shall be based.

Deduction of Losses, Depreciation, Payments on Policy Contracts by Insurance Companies.

ART. 147. (a) Under item 5 (a) of the return form, the insurance company may take credit for all losses actually

sustained during the year and not compensated by insurance or otherwise, including losses resulting from the sale or maturity of securities or other assets, as well as decreases by adjustment of book values of securities, in so far as such decreases represent actual declines in values which have taken place during the year for which the return is made; also losses from agency balances, or other accounts, charged off as worthless; losses by defalcation; premium notes voided by lapse, when such notes shall have been included in gross income. This item will not, however, include payments on policy contracts.

Losses by Shrinkage in Value of Property.

(b) In this item may be deducted actual losses sustained within the year by reason of the depreciation of property, which shall have been so entered on the books of the company as to constitute a liability against its assets. An arbitrary depreciation deduction claimed in the return, but not evidenced by book entry, cannot be allowed.

Policy Contracts Paid. Losses Incurred and Unpaid Not Deductible.

(c) In this item credit will be taken for all death, disability, or other policy claims, including fire, accident, and liability losses, matured endowments, annuities, payments on installment policies, surrender values, and all claims actually paid under the terms of policy contracts. Salvage need not be included in gross income if deducted in ascertaining the net amount paid for losses under policy contracts. Reserves covering liabilities for losses incurred, reported, resisted, adjusted or unadjusted but not paid, cannot be deducted from gross income under this or any other item of the return.

Additions to Reserves Required by Law, How Determined.

(d) The reserve funds of insurance companies to be considered in computing the deductible net addition to reserve funds are held to include only the reinsurance reserve and

the reserve for supplementary contracts required by law in the case of life insurance companies, the unearned premium reserves required by law in the case of fire, marine, accident, liability, and other insurance companies, and only such other reserves as are specifically required by the statutes of a State within which the company making the return is doing business. The reserves used in computing the net addition must not include the reserve on any policies the premiums on which have not been accounted for in gross income. For the purpose of this deduction, the net addition is the excess of the reserve at the end of the year over that at the beginning of the year and may be based upon the highest authorized reserve required by any State in which the company making the return does business.

Assessment Company Reserves.

In the case of assessment insurance companies, the actual deposits of sums with the State or Territorial officers pursuant to law, as additions to guaranty or reserve funds, shall be treated as payments required by law to reserve funds.

Mutual marine insurance companies will deduct under item 5(e) amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof.

What Constitutes Allowable Interest Deduction.

ART. 148. The amount of interest accrued and paid within the year by a corporation on an amount of bonded or other indebtedness not in excess of *one-half* of the *sum* of the interest-bearing indebtedness *and* the paid-up capital stock outstanding at the close of the year, or, if no capital stock, on the amount of interest-bearing indebtedness not exceeding the amount of capital employed in the business at the close of the year, constitutes an allowable deduction; that is, the maximum principal, upon which interest for the purpose of this deduction can be computed, must not exceed, in the one case, *one-half* of the *sum* of the interest-bearing indebtedness

and the capital stock outstanding at the close of the year, or, in the other case, must not exceed the amount of capital employed in the business at the close of the year. The interest to be deductible must have been computed on the proper principal at the contract rate and must have been actually paid within the year.

Interest Paid as Rental Deductible. Interest on Mortgage on Real Estate in Which Corporation Has Equity Not Deductible.

Interest paid pursuant to contract on an indebtedness secured by mortgage on real estate occupied and used by a corporation, in which real estate the corporation has no equity or to which it is not taking title is an allowable deduction from gross income as a rental charge, payment of which is required to be made as a condition to the continued use and possession of the property. If, however, the corporation has an equity in or is purchasing for its own use the real estate upon which such mortgage is a prior lien, the indebtedness will be held to be indebtedness of the corporation within the meaning of the law, and the interest paid on such mortgage will be deductible only to the extent that it, with interest on other obligations of the corporation, is within the limit fixed by the act.

Banks and Banking Associations.

ART. 149. In the case of banks and banking associations, loan or trust companies, interest paid within the year on deposits, or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, may be allowably deducted from the gross income of such corporations.

Interest Paid on Indebtedness.

ART. 150. Interest paid on indebtedness, wholly secured by collateral the subject of sale in ordinary business of such corporations, is also deductible to the full amount of such

interest paid. This contemplates that the entire interest received on the collateral securing such indebtedness shall be included in the gross income returned.

Different Rates of Interest.

ART. 151. Interest on bonded or other indebtedness bearing different rates of interest may be deducted from gross income during the year, provided the aggregate amount of such indebtedness on which the interest is paid does not exceed the limit prescribed by law, and in case the indebtedness is in excess of the amount on which interest may be legally deducted the indebtedness bearing the highest rate may be first considered in computing the interest deduction, and the balance, if any, will be computed upon the indebtedness bearing the next lower rate actually paid, and so on until interest on the maximum principal allowed has been computed.

Taxes Deductible.

ART. 152. All sums paid within the year for taxes imposed under the authority of the United States or of any State or Territory thereof, or imposed by the government of any foreign country, are deductible from gross income.

Taxes Not Deductible.

ART. 153. Taxes paid for local benefits are not deductible. Taxes paid by a corporation pursuant to a contract guaranteeing that the interest payable on its bonds or other indebtedness shall be free from taxation are not deductible.

Tax on Capital Stock of Banks.

ART. 154. Banks paying taxes assessed against their stockholders because of their ownership of the shares of stock issued by such banks cannot deduct the amount of taxes so paid in making their return for the income tax imposed by this act unless specially authorized to do so by the laws of the State in which they do business. The shares of stock are the property of the stockholders, and such holders are primarily liable for the tax.

Import Duties.

ART. 155. Import duties or taxes are not deductible under the item of taxes paid during the year, but should be included in arriving at the cost of goods under item No. 4 (expenses).

Reserves for Taxes.

ART. 156. Reserves for taxes cannot be allowed, as the law specifically provides that only such sums as are paid within the year for taxes shall be deducted.

Foreign Corporations Subject to Tax. Deductions Confined to Expenses of Business Done in the United States.

ART. 157. Foreign corporations shall be subject to the normal tax of 1 per cent computed upon the net income received by or accruing to such corporations from business transacted and capital invested in this country. For the purpose of the tax the net income of such foreign organizations shall be ascertained by deducting from the gross income arising, received, or accruing from business done and capital invested in this country the deductions enumerated in the act, which deductions shall be limited to expenditures or charges actually incurred in the maintenance and operation of the business transacted and capital invested in the United States, or, as to certain charges, such proportion of the aggregate charges as the gross income from business done and capital invested in the United States bears to the aggregate income within and without the United States. In other words, the deductions from the gross income of a foreign corporation doing business in this country should, as nearly as possible, represent the actual expenses and authorized charges incident to the business done and capital invested in this country, and must not comprehend, either directly or indirectly, any expenditures or charges incurred in the transaction of business or the investment of capital without the United States.

How Deductions Shall Be Evidenced.

ART. 158. It is immaterial whether the deductions except for taxes and losses are evidenced by actual disbursements in cash, or whether evidenced in such other way as to be properly acknowledged by the corporate officers and so entered on the books of the corporation as to constitute a liability against the assets of the corporation making the return. Deductions for taxes, however, should be the aggregate of the amounts actually paid, as shown on the cash book of the corporation. Deductions for losses should be confined to losses actually sustained and charged off during the year and not compensated by insurance or otherwise. Except as the same may be modified by the provisions of the act, limiting certain deductions and authorizing others, the net income as returned for the purpose of the tax should be the same as that shown by the books or the annual balance sheet.

Tax on Net Income of Corporations for the Year 1913.

ART. 159. The tax imposed upon the income of corporations, whether domestic or foreign, shall be computed upon the net income, ascertained in the manner hereinbefore indicated, except that for the year ending December 31, 1913, the income tax will be imposed upon the net income accrued from March 1 to December 31, both dates inclusive, and such amount of net income is ascertained by taking five-sixths of the entire net income for said calendar year.

Special Excise Tax on Corporations.

ART. 160. The special excise tax on corporations provided for in the act of August 5, 1909, is reaffirmed and made operative and effective as to the period from January 1 to February 28, 1913, both dates inclusive, which said tax shall be computed upon one-sixth of the entire net income of said corporations for said year, and the net income shall be ascertained in accordance with the provisions of the income-tax law.

Return and Assessment.

For the year 1913 it shall be necessary to make but one return and assessment for all taxes imposed in the income-tax law upon corporations, either by way of income or excise, which return and assessment shall be made at the times and in the manner provided in section 2 of the act of October 3, 1913.

No Specific Exemption Allowable as a Deduction.

Under the present law, no specific exemption is allowable, as was the case under the corporation-tax law; hence the assessment will be based upon the entire net income of the corporation arising or accruing to it from all sources during the entire year for which the return is made.

Inventories.

AET. 161. In order that certain classes of corporations may arrive at their correct income, it is necessary that an inventory, or its equivalent, of materials, supplies, and merchandise on hand for use or sale at the close of each calendar year shall be made in order to determine the gross income or to determine the expense of operation.

Physical Inventory.

A physical inventory is at all times preferred, but where a physical inventory is impossible and an equivalent inventory is equally accurate, the latter will be acceptable.

An equivalent inventory is an inventory of materials, supplies, and merchandise on hand taken from the books of the corporation.

Corporations, Classes of.

AET. 162. For the purpose of this tax, corporations are divided into five classes, as follows:

Class A. *Financial and commercial*, including banks, banking associations, trust companies, guaranty and surety companies, title insurance companies, building associations (if for profit), and insurance companies, not specifically exempt.

Class B. *Public service*, such as railroad, steamboat, ferryboat, and stage-line companies; street-railway companies; pipe-line, gas-light, and electric-light companies; express companies, telegraph and telephone companies.

Class C. *Industrial and manufacturing*, such as mining, oil and gas producing companies, lumber and coke companies; rolling mills; foundry and machine shops; sawmills; flour, woolen, cotton, and other mills; manufacturers of cars, automobiles, elevators, agricultural implements, etc.; manufacturers or refiners of sugar, molasses, sirups, or other products; ice and refrigerating companies; slaughterhouse, tannery, packing, or canning companies; printing and publishing companies, etc.

Class D. *Mercantile*, including all dealers (not otherwise classed as producers or manufacturers) in coal, lumber, grain, produce, and all goods, wares, and merchandise.

Class E. *Miscellaneous*, such as architects, contractors, hotel, theater, or other companies or associations not otherwise classified.

Form of Return.

ART. 163. Under the authority conferred by this act, forms of return have been prescribed, in which the various items specified in the law are to be stated. Blank forms of this return will be forwarded to collectors and should be furnished to every corporation, not expressly exempted, on or before January 1 of each year, in the case of corporations making their returns for the calendar year, or on or before the first day of the next fiscal year in the case of corporations making returns for their fiscal year. Failure on the part of any corporation, joint-stock company, association, or insurance company liable to this tax to receive a prescribed blank form will not excuse it from making the return required by law, or relieve it from any penalties for failure to make the return in the prescribed time. Corporations not supplied with the proper forms for making the return should make application therefor to the Collector of Internal Revenue in whose district is located its principal place of business in ample time

to have its return prepared, verified, and filed with the Collector on or before the last due date as hereinafter defined. Failure in this respect subjects it not only to 50 per cent additional tax, but to the specific penalty imposed for delinquency. Each corporation should carefully prepare its return so as to fully and clearly set forth the data therein called for. Imperfect or incorrect returns will not be accepted as meeting the requirements of the law.

Penalties Imposed by Act.

ART. 164. To any sum or sums due and unpaid after the date for payment stated in the notice and demand issued by the Collector, there shall be added the sum of 5 per cent of the amount so unpaid, and interest at the rate of 1 per cent per month. To the amount assessable on the basis of the net income there shall be added 50 per cent in case of refusal or neglect of a corporation to make a return or 100 per cent in case of a false or fraudulent return. For refusal or neglect to make a return within the prescribed time, or for a false or fraudulent return, the corporation so offending shall be liable to a specific penalty not exceeding \$10,000. Any person divulging unlawfully any information whatever disclosed by a return shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

Fraudulent Returns.

Any person or any officer of any corporation required by law to make, render, sign, or verify any return, who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by section 2, act of October 3, 1913, shall be guilty of a misdemeanor and shall be fined not exceeding \$2,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

Fiscal Year; How Established.

ART. 165. The Federal Income-tax Law authorizes corporations, joint-stock companies, etc., under certain condi-

tions to make their returns on the basis of an established "fiscal year" or consecutive 12-months period, which may be other than the calendar year.

Pursuant to this provision the following instructions are issued for the guidance of collectors and other interested parties:

May Designate Day for Closing of Fiscal Year and Must Give at Least Thirty Days Notice to Collector of the Day so Designated.

Any corporation, joint-stock company, or association, or any insurance company subject to the tax imposed by this act may, at its option, have the tax payable by it computed upon the basis of the net income arising or accruing from all sources during its fiscal year, provided that it shall designate the last day of the month selected as the month in which its fiscal year shall close as the day of the closing of its fiscal year, and shall, not less than thirty days prior to the date upon which its annual return is to be filed, give notice, in writing, to the Collector of Internal Revenue of the district in which its principal place of business is located, of the day it has thus designated as the closing of such fiscal year.

Illustration of Fiscal Year.

AET. 166. In pursuance of this provision, a corporation or like organization subject to this tax may, for example, designate the 30th day of September as the day for the closing of its fiscal year, whereupon its return of annual net income shall be filed with the Collector of Internal Revenue of the district in which its principal place of business is located not later than sixty days after the close of its said proposed fiscal year; that is to say, on or before the 29th day of November next succeeding.

The date of the closing of the fiscal year having been designated, notice thereof must be given to the Collector not less than thirty days prior to the last day of such sixty-day period. In the case just instanced the notice must be given not later than October 29.

If such designation (September 30, 1913) had been made and notice given, as hereinbefore indicated, as to the closing of the fiscal year 1913, the corporation would be authorized to make its return and have the tax payable by it computed upon the basis of the net income arising or accruing to it during the period from January 1 to September 30, 1913, both dates inclusive.

Collectors Must Make a Record of the Designation of the "Fiscal Year."

ART. 167. Collectors of internal revenue receiving notices of the selection and designation of the "fiscal years," as above indicated, will make record of the same, recording (a) the name of the corporation or like organization, (b) the date when notice was given, (c) the day designated for the closing of the fiscal year, and (d) the date when the return under such designation must be filed, which must be, as above stated, not later than the last day of the sixty-day period next following the day designated as the close of the fiscal year.

Unless Notice Was Given Within Prescribed Time, Calendar Year Will Govern.

ART. 168. If it shall appear that for the year 1913 the notice was given within the prescribed time—that is, within thirty days of the last day of the sixty-day period—the 1913 return may be made as of the fiscal year so established; otherwise it will be made on the basis of the calendar year until such time as the designation shall be duly made and notice thereof properly given.

Designation and Notice Cannot be Retroactive.

ART. 169. The designation and notice cannot be retroactive; that is to say, if a corporation now designates April 30, 1914, as the date of the closing of its fiscal year and gives notice of such designation, it would not be authorized to make a return for the four months ended April 30, 1913, and then for the fiscal year ended April 30, 1914, nor would it be authorized to make one return covering the entire sixteen

months ended April 30, 1914. In the case of such corporation the return for the year must be made for the calendar year ended December 31, 1913, and then, assuming that designation and notice had been properly made and given, it may make a return for the four months ended April 30, 1914, and thereafter the return will be made on the basis of the fiscal year so established.

Where Fiscal Year is Not Properly Established, Returns Must be Made for Calendar Year.

ART. 170. In all cases where a fiscal year is not established as above prescribed returns must be made on the basis of the calendar year, in which case such returns must be filed on or before the 1st day of March next succeeding such calendar year. Such returns in either case provided must be verified under oath or affirmation of its president or other principal officer, and its treasurer or assistant treasurer; that is to say, by two different persons acting in the official capacity indicated.

Returns Made on Basis of Fiscal Year Not so Designated Cannot be Accepted.

ART. 171. If it shall appear in any case that returns have been made to the Collector on the basis of a fiscal year not designated as above indicated, the corporations making such returns will be advised that such returns cannot be accepted, but must be made to cover the business of the calendar year.

Returns for 1913 Must be Made on New Forms.

ART. 172. Returns made under this act and pursuant to these instructions must be made on the new forms prescribed by this Department.

The forms heretofore in use, under the special excise tax law, cannot be used for making returns for either the fiscal or calendar year 1913.

Extension Not to Exceed Thirty Days.

ART. 173. An extension of time within which a return may be filed can in no case exceed thirty days from the date on which the return is due and can be granted only upon written application to the Collector, and in case of sickness or absence of an officer whose signature to the return is required, such application to be made prior to the expiration of the period for which the extension is desired.

Returns Properly Mailed in Time to Reach Collector Not Subject to Penalty Under Certain Conditions.

ART. 174. If a return is made and placed in the United States mails, properly addressed, and postage paid, in ample time, in due course of mails, to reach the office of the Collector or deputy collector on or before the last due date, no penalty will be held to attach should the return not be actually received by such officer until subsequent to that date.

Last Due Date Defined.

ART. 175. "Last due date," as hereinbefore used, is construed to mean the last day upon which a return is required to be filed in accordance with the provisions of the law, or the last day of the period not exceeding thirty days covered by an extension of time granted by the Collector.

When Due Date Falls on Sunday or Legal Holiday.

ART. 176. When the due date as above defined falls on Sunday or on a legal holiday, the last due date will be held to be the day next following such Sunday or legal holiday, and the return should be made to the Collector not later than such following day, or, if placed in the mails, it should be posted in ample time to reach the Collector's office, under ordinary handling of the mails, on or before the date on which the return is thus made due in the office of the Collector.

Assessment and Payment of Taxes. Notice of Assessment.

ART. 177. All assessments against corporations, etc., making returns for the calendar year are required to be made and the several corporations, joint-stock companies, etc., notified of the amount for which they are liable on or before the 1st of June of each successive year, and said assessments shall be paid on or before the 30th day of June of such year. In the case of corporations making returns for the fiscal year, the assessments shall be made and notice given on or before the expiration of ninety days from the date when the returns were required to be filed, and the taxes assessed against such corporations, etc., shall be paid within one hundred and twenty days after the date upon which the returns were required to be filed. In case of refusal or neglect by a corporation, etc., to make a return, and in case of false or fraudulent return, the Commissioner, upon the discovery thereof within three years after such returns are due, shall make a return upon information obtained in the manner provided in the act, and the assessment made on the basis of such return shall be paid immediately upon notice and demand given by the Collector.

Failure to Pay Tax When Due.

Upon failure to pay the tax when due and for ten days after notice and demand, a penalty of 5 per cent of the amount of the tax unpaid and interest at the rate of 1 per cent per month until paid shall be added to the amount of such tax.

Returns Are Public Records, Subject to Inspection Upon Order of the President.

ART. 178. When the assessments shall have been made, the returns shall be filed in the office of the Commissioner and shall constitute public records, subject to inspection upon the order of the President, under rules and regulations prescribed by the Secretary of the Treasury and approved by the President. Copies of returns on file in the Commissioner's

office are not permitted to be sent to any person, except to the corporation itself or to its duly authorized attorney.

Information to States Which Impose Income Taxes.

AET. 179. Upon request of the Governor of a State which imposes a general income tax, the proper officers of such State may have access to the returns filed by corporations doing business in such States, or to an abstract thereof showing the name and income of such corporations, etc., at such times and in such manner as the Secretary may prescribe. In no case are the original returns to be removed from the office of the Commissioner, except upon order and by direction of the Secretary of the Treasury or the President.

Certified Copies of Returns.

AET. 180. At the request of the Attorney General, or by direction of the Secretary of the Treasury, certified copies of returns may be made and delivered to the United States district attorneys for their use as evidence in the prosecution or defense of suits in which the collection or legality of the tax assessed on the basis of such returns is involved, or in any suit to which the United States Government and the corporation, etc., making the return are parties and in which suit such certified copies would constitute material evidence.

Penalty for Giving Information in Regard to Returns.

AET. 181. The disclosure by any collector, deputy collector, agent, clerk, or other officer or employee of the United States to any person of any information whatever contained in or set forth by any return of annual net income made pursuant to this act is, by the act, made a misdemeanor, and is punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court, and if the offender is an officer or employee of the United States he shall be dismissed and be incapable thereafter of holding any office under the United States Government.

Bookkeeping.

ART. 182. No particular system of bookkeeping or accounting will be required by the department. However, the business transacted by corporations must be so recorded that each and every item set forth in the return of annual net income may be readily verified by an examination of the books of account.

Books of Account Best Guide to Income.

ART. 183. The books of a corporation are assumed to reflect the facts as to its earnings, income, etc. Hence they will be taken as the best guide in determining the net income upon which the tax imposed by this act is calculated. Except as the same may be modified by the provisions of the law, wherein certain deductions are limited, the net income disclosed by the books and verified by the annual balance sheet, or the annual report to stockholders, should be the same as that returned for taxation.

Omitted Taxes May be Assessed.

ART. 184. In cases wherein corporations have neglected or refused to make returns, and in cases wherein returns made are found, upon investigation or otherwise, to be false or fraudulent, the Commissioner may, upon discovery thereof, at any time within three years after said return is due, make return upon the information obtained in the manner provided in the act, and the tax so discovered to be due, together with the additional tax prescribed, shall be assessed, and the amount thereof shall be paid immediately upon notice and demand.

Corporations Subject to Normal Tax.

ART. 185. Corporations coming within the terms of this law are subject to the normal tax only; that is, a tax computed at a level rate of 1 per cent of their entire net income regardless of the amount of such net income.

Examination of Books.

ART. 186. For the purpose of verifying any return, made pursuant to this act, the Commissioner of Internal Revenue may, by any duly authorized revenue agent or deputy collector, cause the books of such corporation to be examined, and if such examination discloses that the corporation is liable to tax in addition to that previously assessed, or assessable, the same shall be assessed and shall be payable immediately upon notice and demand. For the purpose of such examination, the books of corporations shall be open to the examining officer, or shall be produced for this purpose upon summons issued by any properly authorized officer.

PART 4

ASSESSMENT AND COLLECTION.

Taxes Due to be Reported on Assessment List.

ART. 187. All income taxes found to be due will be reported by collectors on their assessment lists, Form 23-A in the case of corporations, and on Form 23-B in the case of individuals and withholding agents.

Names to be Listed in Alphabetical Order. Names of Withholding Agents, How to be Listed.

ART. 188. The names of corporations subject to tax will be listed on Form 23-A, according to their designated class, and in alphabetical order as to each class. Names of individuals subject to tax will be listed on Form 23-B, alphabetically, without reference to class or rate of tax. Following such names there will be listed, alphabetically, the names of all withholding or licensed collecting agents, and the *aggregate* amount of tax withheld by each, as shown by the annual returns rendered by them. An assessment against each person, firm or company from whose income the tax has been so withheld will be unnecessary in such cases.

Assessment Against Withholding Agents to be Deferred Until Annual Reports Are Received.

ART. 189. To avoid, as far as possible, the assessment of taxes as to which claims for exemption or deduction may be filed under Article 33, collectors will delay reporting for assessment taxes remaining in the hands of withholding agents until the annual reports of such agents, which must be filed not later than March 1 in each year, are received.

Returns, When to be Made.

ART. 190. Returns of withholding agents (including those of licensed collecting agents) as to interest payments shall be made monthly and returns containing summaries of said monthly returns shall be made annually. (See Part 2, A, B,

and C.) Returns of individuals (see Part 1), corporations (see Part 3), and withholding agents, withholding tax on wages, salaries, rents, etc. (see Part 2, D), and fiduciaries acting as withholding agents (see Part 2, E) shall be made annually. All monthly returns are required to be made on or before the 20th day of each month for the preceding month. All annual returns are required to be made on or before the 1st day of March in each year, except in the case of corporations which have given due notice of the termination of their fiscal year, in which cases the prescribed return is to be filed within 60 days after the termination of such fiscal year.

Corporations May Include in Returns for Year 1913 Income Subject to Special Excise Tax.

ART. 191. Corporations which are subject to the special excise tax on income received during the months of January and February, 1913, may, under the provisions of section 4, paragraph S, of the act of October 3, 1913, include such income, as also the income taxable under said act, in one return for the year 1913. In each such case one assessment only will be made.

*Returns of Income to be Forwarded With Assessment Lists.
False or Fraudulent Returns.*

ART. 192. All returns of income, whether of individuals or corporations, should be forwarded with the assessment list rendered. Where in any case the collector has reason to believe that any return rendered is false or fraudulent, he will prepare and retain in his office a copy of such return, and will note on the original and under the head of "Remarks" of his assessment list the words "Investigation pending." He will in all such cases make his investigation in the manner prescribed in section 3173, Revised Statutes, and paragraph D of said act of October 3, 1913; and he will report the results of his investigation to the Commissioner of Internal Revenue, referring to the list, folio, and line on which the assessment was reported. (Amended T. D. 2024.)

Certain Returns of Withholding Agents to be in Duplicate.

ART. 193. Monthly and annual returns of withholding agents (including those of licensed agents) as to interest payments and the annual returns of withholding agents withholding tax on wages, salaries, etc., will be made in duplicate, one copy of which will be retained by the collector in his office and one copy transmitted to the Commissioner of Internal Revenue. Annual returns of withholding agents (including those of licensed agents) as to interest payments, and returns of withholding agents as to wages, salaries, etc., and of fiduciaries will be forwarded by the collector with his list, Form 23-B, on which the tax withheld is reported for assessment.

Certificates and Returns to be Forwarded as Soon as Received.

ART. 194. All certificates of exemption or deductions, filed by or on behalf of persons subject to tax, will be forwarded by the collector as soon as received; and all such certificates, reports, and returns, before being transmitted to the commissioner, will have stamped thereon the name and number of the district; will be arranged (unfolded) in alphabetical order and, in the case of corporations, according to the designated class to which they belong. Care should be taken to have all such papers, when so arranged, carefully secured by cord or other fastening, so as to insure their receipt in like order. This is especially necessary in view of the large number of like papers which will be forwarded from the various districts.

Reports and Returns to be at Once Examined by Collectors.

ART. 195. In order that assessment lists may be promptly prepared and forwarded, collectors will see that all reports and returns to be listed are examined as received, and that no delay occurs in this branch of the work. Special diligence in this matter is necessary, as sufficient time must be given for the reëxamination of such returns in the commissioner's office before assessment is made. The forwarding of assess-

ment lists, however, should in no case be delayed, beyond the time allowed, on account of unexamined returns, as such returns can be examined and reported on a subsequent list. As the law limits the time in which these assessments are to be made and notice of assessment given, collectors will assign to this work all available force in their respective offices.

Notice to be Sent to Delinquents.

ART. 196. Where the required returns are not filed within the prescribed time, either by individuals or corporations, notice on Form 1045 should in each case be sent to the delinquent. (For authorized extension of time, see Articles 23 and 173.)

Notice of Assessment. Demand for Tax, Penalty, and Interest.

ART. 197. When assessment has been made, collectors will, on receipt of their returned lists, at once issue preliminary notices of assessment (Form 647), and where in any case the tax assessed is not paid on or before the 30th day of June or, in case of corporations designating their own fiscal year, within 120 days following the date on which the return should have been filed, notice and demand (Form 17) should be at once issued, and unless the tax in such case is paid within 10 days after the service of such notice, general demand for tax, penalty, and interest (Form 21) should at once be issued. Immediate notice and demand (Form 17) will, however, be served in case of failure to file the required return within the statutory period.

Notice of Assessment to be Sent Immediately on Return of List.

ART. 198. Pending assessment on returns forwarded to the commissioner, collectors will have prepared the necessary notices of assessment, with properly addressed envelopes, to be used immediately on return of their assessment lists.

Payments, Abatements, and Outstanding Balances.

ART. 199. Statements of payment, abatement, and outstanding balances of such assessed taxes will be rendered monthly by collectors on *special* Form 325. Such statements will be prepared in the same manner as required in the case of assessments on the *regular* Form 23, except that in Statement III the outstanding balances on the various lists will be reported in aggregate only. Items constituting such balances, however, will be carded by collectors, but only as to such as were assessed during the month for which the return is rendered, thus avoiding detailed statements each month of outstanding balances previously reported. A separate card (Form 1020) will be used for each such item; and all cards so prepared each month should be arranged alphabetically, and so forwarded by the collector with his report on special Form 325.

W. H. OSBORN,

Commissioner of Internal Revenue.

Approved:

W. G. McADOO,

Secretary of the Treasury.

PART IV

TREASURY DEPARTMENT SPECIAL RULINGS

Sixty-six decisions, construing the law, supplementary to the preceding 199 articles. The ones given here are the Treasury Department rulings concerning the income tax, from T. D. 1892, November 6, 1913, to T. D. 2289, January 28, 1916, and all are given except a few of temporary application which are now obsolete. The usual headings and signatures are omitted from all after the first. See general subjects in Table of Contents, and detailed references in Index.

TREASURY DEPARTMENT SPECIAL RULINGS

(T. D. 1892.)

Income Tax.

Interest upon obligations of the United States or its possessions, or of any State, county, city, or any other political subdivision thereof, is not subject to income tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
WASHINGTON, D. C., November 6, 1913.

To collectors of internal revenue:

It has been called to the attention of this office that banks in certain sections are refusing to pay coupons for interest on bonds of States, counties, cities, or other political subdivisions of the United States, when such coupons are not accompanied by certificates of ownership, without deducting the normal income tax of 1 per cent, which the law and the regulations of this department require shall be deducted at the source in paying the interest on bonds of corporations, joint-stock companies or associations, and insurance companies.

Please inform all parties interested, giving the information wide publicity, that the income derived from the interest upon the obligations of a State, county, city, or any other political subdivision thereof, and upon the obligations of the United States or its possessions, is not subject to the income tax, and a certificate of ownership in connection with the coupons or registered interest orders for such interest will not be required.

The interest coupons should clearly show on their face whether they are issued by the United States or any political subdivision thereof. If, however, they do not clearly show this, then, of course, an ownership certificate should be required.

W. H. OSBORN, *Commissioner.*

(T. D. 1933—See T. D. 1996.)

Mutual telephone companies, mutual insurance companies, and like organizations whose status, under the law, is not dependent upon whether or not they are organized for profit, and not being specifically enumerated as exempt, must make returns of annual net income pursuant to the requirements of section 2, act of October 3, 1913.

This office is in receipt of your letter asking advice as to whether or not mutual telephone companies will be required to file returns of annual net income under the provisions of section 2, act of October 3, 1913.

In reply you are informed that under the provisions of the act above cited, every corporation, joint-stock company, and every insurance company, no matter how created or organized, is subject to the income tax and will be required to make returns of annual net income, except such as are specifically enumerated in the act as exempt from its provisions. In the list of those so enumerated as exempt do not appear mutual telephone companies or similar organizations.

Since under this act no exemption is provided, either express or implied, for mutual telephone and like companies, and liability is not dependent upon whether or not the corporation is organized for profit, it is held that all corporations not specifically enumerated as exempt will be required to make returns of annual net income and to pay any tax that may be assessed upon the net income returned.

This ruling will comprehend all telephone companies, local insurance companies, and like corporations, whether or not they are organized primarily for the mutual benefit of their members.

(T. D. 1937.)

Corporations are not permitted to deduct from gross or net income for the year 1913 any portion of specific exemption authorized under corporation tax law.—Sec. 38, act Aug. 5, 1909.

Section 2 of the act approved October 3, 1913, known as the Federal Income Tax Law, provides that all corporations, joint-stock companies, and all insurance companies, except those specifically enumerated as exempt, shall be subject to the normal tax imposed upon individuals, such tax to be levied, assessed, and paid annually upon the entire net income arising or accruing from all sources during the preceding calendar year.

The provisions of this act apply to corporations which have or may have income arising or accruing on and after March 1, 1913. For the purpose of covering the liability of corporations to special excise tax for the months of January and February, 1913, the provisions of the corporation tax law (sec. 38, act August 5, 1909) were extended, and in subsection S of the income tax law it is provided that the net income for these two months shall be ascertained in accordance with the provisions of subsection G of section 2 of the act of October 3, 1913, that is, in the same manner as the net income for the remaining 10 months of the year is ascertained.

In the subsection G, just cited, all items or charges against income, which constitute allowable deductions from gross income, are specifically set out. No provision, either express or implied, is made in this subsection or elsewhere in the act for the allowance of all or any portion of the specific exemption (\$5,000) allowed under the corporation tax law. As applied to the months of January and February, 1913, the income tax law in effect amends the corporation tax law by eliminating the specific exemption previously allowed, and provides that the tax for that period shall be measured by the net income ascertained according to the rule set out in subsection G of the later act. (See second proviso in subsec. S, act Oct. 3, 1913.)

The third proviso of subsection S also provides that—

For the year 1913 it shall not be necessary to make more than one return and assessment for all taxes imposed * * * by way of income or special excise.

The net income for both kinds of taxes and for both periods of the year being ascertained in exactly the same manner, but one return covering the entire calendar year 1913 is required. That return will show the entire net income ascertained in accordance with the provisions of the income tax law, and no specific exemption whatever being authorized, such net income as returned for the entire year will be the amount upon which the tax is computed.

(T. D. 1943.)

Instructions to collectors relative to fiduciaries and returns to be made by them on Form 1041.

To collectors of internal revenue:

T. D. 1908 provides that all fiduciaries shall on or before March 1 of each year, when the annual interest of any beneficiary in the income of the estate or trust is in excess of \$3,000 (\$2,500 for the year 1913), make and render a return of the income of the person or persons (the beneficiaries) for whom they act to the collector of internal revenue of the district in which the fiduciary resides.

Where a decedent died after March 1 in the year 1913, and from March 1 up to the date of his death had a net income of \$2,500 or more, the fiduciary (i. e., the executor or administrator) should make a return for the decedent on Form 1040, and the income tax, both normal and additional, shown to be due thereon will be a debt against the estate of the decedent. The same principle will apply to subsequent years if the net income of the decedent from January 1 to the date of his death amounts to \$3,000 or more. No other return is required to be made by the fiduciary until the settlement of the estate has reached the stage when the beneficiaries thereof and their re-

spective interests in the *income* derived from the estate are determinable, and then the fiduciary is required to file a return on or before March 1 of each year, as prescribed by the regulations.

The fiduciary will enter on page 2 of Form 1041, under the appropriate heads, all income accruing to the beneficiaries of the trust or estate from March 1 to December 31, 1913, inclusive; but the interest derived from the obligations of a State or any political subdivision thereof and the obligations of the United States or its possessions is not to be included.

The fiduciary will enter on page 3 of Form 1041 for the year 1913 five-sixths of the deductions allowable under paragraph B of the law, and on line 1 it will be proper for the fiduciary to enter all legitimate expenses incurred in administering the estate or trust. If the fiduciary holds and rents business or residential property and pays insurance, water rents, commissions for the collection of rents, or any other necessary expenses in managing the estate or trust, it will be proper to enter same on line 1 as an allowable deduction.

The amount to be shown on page 1, line 3, will represent the total amount of income accruing through the fiduciary to the beneficiaries of the estate or trust which is subject to the normal tax, and when the interest of any one beneficiary in this amount from November 1 to December 31, 1913, inclusive, was in excess of \$3,000, whether distributed or not, the fiduciary was required to withhold and pay the normal tax on the whole \$3,000 and excess thereof, unless the beneficiary filed with the fiduciary Form 1007, as prescribed by the regulations, claiming exemption under paragraph C, and in that event the fiduciary was only required to withhold and pay the normal tax on the amount in excess of the exemption claimed.

T. D. 1906 prescribes that when fiduciaries make their annual return they shall give the name and full address of each beneficiary and the share of income to which each may be entitled, which information shall be given on page 1 of Form 1041. In the column "Amount of income paid or accrued to beneficiaries" should be entered the respective in-

terest of the beneficiary in the amount of income as shown on page 1, line 3.

When the interest of any beneficiary in the amount of income subject to the normal tax, as shown on Form 1041, page 1, line 3, is in excess of \$3,000, and the same was paid to the beneficiary within the period from November 1 to December 31, 1913, both dates inclusive, the fiduciary was required to *withhold and pay the normal tax* as prescribed by the regulations, and the information required should be given on Form 1041, page 1, giving the name and full address of each beneficiary, the amount of income paid or payable to each beneficiary (this amount would be the beneficiary's interest in the amount of income subject to the normal tax as shown on line 3), the amount of exemption claimed under paragraph C (if any), the amount of income on which normal tax should be withheld, and the amount of tax withheld, all to be given in the respective columns in the order named.

A fiduciary acting for a minor or insane person who had a net income of \$2,500 or more for the year 1913 will make the return for his ward on Form 1040 and will not be required to file a return on Form 1041, unless he has more than one ward by reason of the same estate or trust; then in that event a return will be required on Form 1041, and a separate return on Form 1040 for each ward having a net income of \$2,500 or more for the year 1913.

The income accruing or paid to a beneficiary through a fiduciary may be composed in part of *dividends*, or income upon which the normal tax has been *withheld and paid or to be paid at the source*, or income derived from the obligations of a State or any political subdivision thereof or from the obligations of the United States or its possessions (income from obligations of a State or any political subdivision thereof and from the obligations of the United States or its possessions is not subject to the tax and should not be included). If a beneficiary has other income which, added to the income accruing to him through his fiduciary, gives him a net income

of \$2,500 or more for the period from March 1 to December 31, 1913, inclusive, he should make a return of his gross income on Form 1040, as required by the regulations.

To illustrate: If a fiduciary's gross income was \$10,000, derived from the following sources:

1. Interest upon the obligations of the United States.....	\$ 1,000
2. Dividends on stock or net earnings of corporations.....	2,000
3. Interest from bonds containing "tax-free covenant clause," upon which the fiduciary did not claim any exemption at source and which he entered on Form 1041, on page 2, column A, as income on which normal tax was withheld.	2,000
4. Income from rents, etc.	5,000
	<hr/>
	\$10,000
	<hr/>

the fiduciary's return on Form 1041 would show as follows:

Page 2. Line 3, column B, amount of rents.....	\$ 5,000
Line 5, interest from bonds, "tax-free clause," column A	2,000
Line 10, dividends	2,000
	<hr/>
Aggregate total of gross income.....	\$9,000
	<hr/>

(No entry of interest on United States bonds, \$1,000.)

Page 3. Line 1, necessary expenses actually paid in carrying on business, including compensation of fiduciary, water rents, insurance, etc.....	\$ 450
Line 3, taxes paid	400
Line 6, actual repairs made on building, or amount allowed for wear and tear.....	150
Line 7, dividends not subject to normal tax.....	2,000
Line 8, amount of income on which normal tax has been deducted and withheld at source, bonds with "tax-free clause"	2,000
	<hr/>
Total deductions	\$5,000
	<hr/>

Page 1. Line 1, gross income	\$ 9,000
Line 2, total deductions	5,000
Line 3, amount of income due beneficiary, which is subject to normal tax.....	\$ 4,000

The beneficiary has filed with the *fiduciary as a withholding agent* a claim for exemption under paragraph C for \$2,500 (exemption of single person for 1913), and the return on Form 1041 would show on page 1, in addition to the foregoing entries, the following:

John Doe, 76 B Street, New York City.

In third column, amount of income paid or accrued to beneficiary	\$4,000
In fourth column, amount of exemption claimed.....	2,500
In fifth column, amount of income on which fiduciary is liable to tax	1,500
In sixth column, amount of normal tax withheld.....	15

In the foregoing illustration the beneficiary, in his return on Form 1040, would make no return of item 1, interest on United States bonds. Item 2, dividends, would be entered on page 2, line 11, and for the purpose of calculating the normal tax would be an allowable deduction on page 1, line 4. Item 3, interest on bonds, would be entered on page 2, line 7, column A, and for the purpose of calculating the normal tax would be an allowable deduction on page 1, line 5. Item 4, rents, would be entered on page 2, line 7; \$1,500 in column A, and \$2,500 in column B (exemption of \$2,500 claimed and no tax withheld on this amount). This would show—

Income received from fiduciary subject to be returned on Form 1040	\$8,000
Deductions and exemption allowable in calculating normal tax	8,000
No normal tax due, it having been paid at the source by the fiduciary as shown by his return on Form 1041.	

In making the foregoing entry on Form 1040, on line 11, there should be written just above the printed heading, "Amount received from fiduciary," and the amount should be entered in the appropriate column.

No illustration is given of income accruing to the beneficiary from *other sources*, an illustration of this not being deemed necessary, as such income is entered in the usual way.

(T. D. 1945—See T. D. 1947.)

Regulation relative to exclusion of income derived from dividends or net earnings of corporations, joint-stock companies or associations, and insurance companies by persons subject to the normal tax only in computing their net income for the taxable year.

Referring to that provision of the income-tax law which reads as follows:

Provided further, That persons liable for the normal income tax only, on their own account or in behalf of another, shall not be required to make return of the income derived from dividends on the capital stock or from the net earnings of corporations, joint-stock companies or associations, and insurance companies taxable upon their net income as hereinafter provided—

you are informed that returns of individuals, when such individuals are subject to the normal tax only, need not include the income derived from the dividends or net earnings referred to above. When individuals are subject to the additional tax, such income derived from said dividends or net earnings must be shown on the return.

Persons having an annual net income of \$3,000 or more, including the income derived from dividends or net earnings of corporations, etc., but whose total net income is less than \$20,000, and whose net income, exclusive of the income derived from dividends or net earnings of such corporations, etc., is less than \$3,000 for the taxable year (\$2,500 for the year 1913), shall not be required to make a return of annual net income.

Returns which have been or may be received from persons subject to the normal tax only, in which such dividends are included and deducted, need not be changed to meet the provisions of this regulation.

All previous rulings of the department, including the general regulations No. 33, are amended accordingly.

(T. D. 1946.)

Special assessment districts created under the laws of the several States for public purposes, such as the improvement of streets and public highways, the provision for sewerage, gas, and light, and the reclamation, drainage, or irrigation of bodies of land, and levee and school districts are held to be political subdivisions of a State.

To collectors of internal revenue:

Referring to paragraph B, section 2, of the income-tax law, which reads as follows:

That in computing net income there shall be excluded interest upon the obligations of a State or any political subdivision thereof—

you are informed that under date of January 30, 1914, the honorable the Attorney General held that special assessment districts created under the laws of the several States for public purposes, such as the improvement of streets and public highways, the provision for sewerage, gas, and light, and the reclamation, drainage, or irrigation of bodies of land within such special assessment districts when such districts are for public use, are political subdivisions of the State within the meaning of the above proviso.

It is held that the term "political subdivision" includes special assessment districts or divisions of a State created by the proper authority of the State acting within its constitutional powers and under its general laws, for the purpose of carrying out a portion of those functions of the State which by long usage and inherent necessities of government have always been regarded as public.

Levee and school districts when lawfully created under the authority of the State and which are authorized by the laws of the State to levy a tax to meet the obligations of such districts are also held to be political subdivisions of a State within the meaning of the income-tax law.

The income derived from interest upon the obligations of all such public districts shall therefore be excluded in computing net income for the income tax.

This decision supersedes T. D. 1910.

(T. D. 1947.)

Extending T. D. 1945 to cover returns made by fiduciaries in their fiduciary capacity.

You are advised that the provisions of T. D. 1945—in matter of exclusion of dividends or net earnings of corporations, joint-stock companies or associations, and insurance companies, by persons subject to the normal tax only, in computing their net income for the taxable year—are extended to cover such returns by fiduciaries.

To make clear any doubt on the subject, the provisions of T. D. 1945 are hereby specifically extended to include returns made by fiduciaries as such.

(T. D. 1948—Tax-free covenant clause—succeeding T. D. 1942.)

This office is in receipt of numerous letters asking whether income, tax on which is *paid or to be paid* at the source, although not *withheld* at the source, can be placed in column A, page 2, of Form 1040, and in reply to this inquiry you will advise as follows:

The stipulation in bonds whereby the tax which may be assessed against them or the income therefrom is guaranteed, is a contract wholly between the corporation and the bondholder, and in so far as the income-tax law applies, the Government will not differentiate between coupons from bonds of this character and those from bonds carrying no such guaranty. The debtor corporation, or its duly authorized withholding agent, will be held responsible for the normal tax due in such cases when no tax has been withheld and no exemption claimed.

Income paid by "debtors" from March 1 to November 1, 1913, shall be included in the return of the individual (under column B, page 2, of Form 1040) as income upon which the

normal tax of 1 per cent has not been withheld and paid at the source. Income received by individuals between November 1 and December 31, 1913, upon which the normal tax has been withheld at the source shall be included in their annual return (under column A, page 2, of Form 1040) as income upon which the tax has been withheld.

(T. D. 1950.)

Time for filing returns of income, and penalties in connection therewith.

You are advised, and will so announce from your respective offices, that the law and regulations require returns of income for the taxable period, March 1 to December 31, 1913, to be made and filed on or before March 1, 1914. The law is mandatory and allows no discretion to be exercised by any officer. Section 3176, Revised Statutes of the United States, as amended and made part of the income-tax law, gives to collectors of internal revenue (they being satisfied as to the merits of the claim, and in the reasonable exercise of their judgment and discretion) authority to grant extension of time not to exceed 30 days from the time prescribed by law in which to file a return of net income, and then only in cases where such failure, neglect, or refusal is the result of "sickness or absence."

You are also advised, and will so announce, that there will be no change in income-tax regulations as they now exist prior to March 1, 1914, and that all persons and corporations required to make a return which have not as yet done so should make and file their returns at the earliest opportunity and on or before March 1.

Collectors will forward to this office immediately a report showing the number of returns filed in their respective offices as of February 20, 1914.

Penalties and additional tax, in connection with refusal or neglect to file return of income within the prescribed time.

As to corporations.—For neglect or refusal to make a return within the prescribed time, corporations are liable to a penalty not to exceed \$10,000; and in case of neglect or refusal to make, or for a false or fraudulent return made, 100 per cent is to be added to the tax; and in the case of neglect or refusal to make and verify a return within the prescribed time (except in case of sickness or absence) 50 per cent is to be added to the tax; and in case of an officer of a corporation or like institution charged with the duty and responsibility of making and verifying a return who makes a false or fraudulent return with the intent to defeat or evade any assessment or tax, he shall be guilty of a misdemeanor, and be subject to a fine not to exceed \$2,000, or to imprisonment not to exceed one year, or both, at the discretion of the court, together with costs.

As to individuals.—For neglect or refusal to make a return within the prescribed time, the penalty is not less than \$20 nor more than \$1,000; and in case of intentional neglect or refusal to make, or for a false or fraudulent return made, there shall be added 100 per cent to the tax; and in case of neglect or refusal to make a return within the prescribed time (except in case of sickness or absence) there shall be added 50 per cent to the tax.

(T. D. 1956.)

Inquiries relative to the income tax covered by regulations and rulings to be answered by collectors.

To collectors of internal revenue:

A large part of the volume of correspondence coming to this office asking for information relative to making return and ascertainment of net income, etc., for the income tax, is

sufficiently covered by regulations, and should be answered in the offices of collectors.

Collectors have been furnished with copies of Regulations No. 33, and will be advised from time to time of additional rulings in income-tax matters.

Collectors are therefore advised that letters coming to this office asking for information which should be supplied by collectors in accordance with instructions and regulations furnished them, will be referred to collectors for reply and writers of the letters advised of the reference. Collectors, upon receipt of letter referred to them by this office, will give immediate attention to the subject-matter of the inquiry, in accordance with the regulations and instructions bearing upon the same.

(T. D. 1957.)

Partnerships are not subject to income tax, but are required to file certificates of ownership of bonds, etc., in connection with coupon and registered interest payments to prevent withholding of their income at the source.

Referring to the following provision in paragraph D of the income-tax law—

That any persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of a partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid, under the provisions of this section, and any such firm, when requested by the Commissioner of Internal Revenue, or any district collector, shall forward to him a correct statement of such profits and the names of the individuals who would be entitled to the same, if distributed—

it is held that the income of partnerships per se is not subject to the income tax. The provisions of the law "relating to the deduction and payment of the tax at the source of income" do not apply to the income of partnerships as such. Taxable members of partnerships will be required to account, in their

individual returns, for their respective shares or interest in the partnership profits, whether the same are divided and distributed or not.

Partnerships owning "bonds and mortgages, or deeds of trust, and other similar obligations of corporations, joint-stock companies or associations, and insurance companies," shall file certificates of ownership, in Form 1001, evidencing the fact of partnership ownership when presenting for collection or payment coupons or interest orders for interest upon said obligations; and when such certificates are filed, the tax on such interest payments to partnerships shall not be withheld.

The last sentence in Article 14, page 35, and Article 47 of Income Tax Regulations No. 33, providing for claim by partnerships for deduction for legitimate expense incurred in conducting the business of a partnership, are hereby superseded and repealed.

(T. D. 1960.)

Corporations are allowed by law to deduct interest actually accrued and paid within the year on an amount not in excess of paid-up capital stock outstanding at the close of the year, plus one-half the interest-bearing indebtedness then also outstanding.

Your attention is called to that provision of the income-tax law designated as the third deduction, subdivision (b), paragraph G, reading as follows:

The amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year, and if no paid-up capital stock, the amount of interest paid within the year on an amount of its indebtedness not exceeding the amount of capital employed in the business at the close of the year.

It is held that in the case of a corporation having capital stock this deductible interest is interest actually accrued and paid within the year on an amount of indebtedness not ex-

ceeding the paid-up capital stock outstanding at the close of the year, increased by the addition thereto of one-half the interest-bearing indebtedness outstanding at the close of the year.

The qualifying phrase, "outstanding at the close of the year," appearing in the foregoing quotation, is held to apply to both paid-up capital stock and indebtedness, and "one-half the sum of" qualifies only the indebtedness, which indebtedness, like the paid-up capital stock, is required by the law to be reported, in making return of annual net income, as outstanding at the close of the year.

If no indebtedness is outstanding at the close of the year, the maximum deduction allowable on account of interest paid will be the amount of interest actually accrued and paid on an amount of indebtedness not exceeding at any time within the year the entire paid-up capital stock outstanding at the close of the taxable year; that is, in such case, the paid-up capital stock outstanding at the close of the year measures the highest amount of indebtedness upon which deductible interest can be computed.

For the purpose of an allowable deduction, interest on the maximum amount of indebtedness, determined in the manner above indicated, can be computed upon such amount only for the time during which such amount of indebtedness is not in excess of the paid-up capital stock, increased by one-half the sum of the interest-bearing indebtedness outstanding at the close of the year.

In any event, the amount of interest, in order to constitute an allowable deduction, must not only be within the limit of the law as herein defined, but must have actually accrued and been paid within the year for which the return is made.

In cases where no capital stock exists, the limitation as to deduction is confined to interest actually paid on an amount of indebtedness not exceeding at any time during the year the capital employed in the business at the close of the year.

Any provision in the regulations heretofore issued inconsistent with the foregoing is hereby revoked.

(T. D. 1961.)

Fiduciaries.

Forms 1015 and 1019 may be adapted so that but one certificate will be required to be filed with coupons from the same issue of bonds, the property of different estates or trusts.

Under Income Tax Regulations No. 33, Articles 39 and 70, fiduciaries are required to file certificates on Form 1015 or Form 1019, according to the nature of the claim to be made by the fiduciary, for each issue of bonds and for each trust.

It is therefore provided that where fiduciaries have the custody and control of more than one estate or trust, and said estates or trusts have as assets bonds of corporations, etc., of the same issue, said fiduciaries may adapt certificates Form 1015 or Form 1019 by changing the words "estate or trust" in lines 2 and 3 of said forms to the plural, and inserting in the blank space provided in line 3 of said forms for the *description of the estate or trust* the words "as noted on the back hereof." In such cases the notation on the back of the certificate should show for each estate or trust (a) the name of the estate or trust, (b) the amount of the bond, (c) the amount of the interest. In all other respects the certificates should be filled out as indicated thereon.

(T. D. 1962—See T. D. 2016.)

Information contained in income-tax returns to be treated as inviolably confidential.

The attention of collectors of internal revenue, internal-revenue agents, and other officers concerned is invited to section 3167 of the United States Revenue Statutes, which prohibits the disclosure of information contained in income and other returns of internal-revenue taxpayers.

All internal-revenue officers will preserve as inviolably confidential all income-tax returns, as the slightest infraction of law upon this subject will be severely punished.

(T. D. 1965.)

Advance payment of tax withheld by withholding agents not to be made prior to 30 days preceding the date on which the annual return is required to be filed.

Attention is directed to note A appearing on the bottom of Forms 1012, 1012c, 1043, and 1044, providing that—

Withholding agents may, if they so desire, pay at the time this list is filed, to the collector of internal revenue with whom the list is filed, the amount of tax withheld during the month for which the list is made,

And to note A, Form 1042, providing that—

The amount of the tax withheld during the year for which the list is made may be paid to the collector at the time the list is filed.

In order that persons whose income tax is deducted and withheld and is to be paid at the source may have an opportunity to file with the source which is required to withhold and pay tax for them certificates claiming the benefit of deductions and exemptions provided for in paragraph B and allowed in paragraph C of the law, withholding agents will not pay to collectors of internal revenue the tax withheld by them under the law until after the time for filing claims for deductions and exemptions has expired. See Regulations No. 33, Art. 33, (a) and (b).

(T. D. 1967—See Page 297.)

Organizations, etc., exempted by the first proviso of paragraph G of section 2 of the act of October 3, 1913, from payment of the income tax are not subject to the provisions of the income-tax law as withholding agents.

This office is in receipt of several communications relative to the duty as withholding agents of religious corporations and other organizations which are specifically enumerated in the first proviso of paragraph G of section 2 of the act of October 3, 1913.

The language of said proviso is as follows:

That nothing in this section shall apply to labor, agricultural, or horticultural organizations, or to mutual savings banks not having a capital stock represented by shares, or to fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations and dependents of such members; nor to domestic building and loan associations; nor to cemetery companies, organized and operated exclusively for the mutual benefit of their members; nor to any corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual; nor to business leagues; nor to chambers of commerce or boards of trade, not organized for profit or no part of the net income of which inures to the benefit of the private stockholder or individual, nor to any civic league or organization not organized for profit but operated exclusively for the promotion of social welfare.

You are therefore advised that the words "this section" are held to refer to and mean the whole of section 2 of the act of October 3, 1913, which section comprises the income-tax law, and that the words "nothing in this section shall apply to" were intended to relieve such organizations, etc., as properly come within the classifications referred to in the proviso quoted, not only from the payment of an income tax but from every obligation or requirement imposed by any or all of the provisions of said section upon withholding agents.

(T. D. 1973.)

Revision of Form 1044, monthly list return of amount of normal income tax withheld by first bank or collecting agency.

Collectors are hereby advised that Form 1044, for monthly list return of amount of normal tax withheld by first bank or collecting agency, has been revised in the following particu-

lars, so that the tax withheld from interest on bonds of different classes or of more than one organization can be reported thereon:

In the section of reading matter beginning, "To be made in duplicate," in the fourth line thereof, change "coupon" to "coupons," and strike out "and interest orders."

In the last line, next above the tabular list, strike out the blank lines and the words thereunder, "Describe the particular issue of bonds," and "State name and address of debtor organization."

Strike out the headings in the tabular list and substitute therefor, in separate columns, "Party presenting coupons," and immediately thereunder, in separate columns, "Name" and "Address," "Name of debtor corporation," "Name of particular issue of bonds," "Amount of income subject to tax," and "Amount of tax withheld."

Immediately after and under the line of totals of the tabular list there shall be a double rule line. Strike out the words now appearing below the total line of the tabular list on Form 1044, viz., "Amount of tax remitted herewith (if any) to collector," and strike out the dotted line following these words, and also the dollar mark on the same line, and strike out the double rule line appearing immediately thereunder.

Strike out all of note A appearing at the bottom of the form.

(T. D. 1974.)

Change of regulations as to certificates of ownership in connection with interest orders or checks for interest on registered bonds.

Articles 41 to 46 of the Regulations are hereby amended so as to require, in the case of interest payments on bonds registered as to both principal and interest, that debtors in such cases shall deduct the normal tax of 1 per cent from accruing interest on all such bonds before sending out orders or checks for said interest to registered owners, unless there

shall be filed with said debtors, at least five days before the due date of said interest, the prescribed certificates claiming exemption.

Where such certificates are so filed the said debtors shall stamp or write on the interest orders or checks, as the case may be, "*Exemption claimed by certificate filed with debtor.*"

Where prescribed certificates are not so filed, said debtor shall deduct and withhold the normal tax of 1 per cent from the amount of such payment, and shall stamp or write on the interest order or check, as the case may be, "*Income tax withheld by debtor.*"

Responsible banks, bankers, or collecting agents receiving for collection interest orders or checks bearing the aforesaid indorsements may present said interest orders or checks for collection without requiring that certificates of ownership be filed therewith.

Certificates of ownership are not required to accompany interest orders or checks in payment of interest on fully registered bonds, as information as to ownership of bonds will be furnished by debtor organizations on monthly list returns, Form 1012; but claim for exemption must be filed with debtors, or the tax must be withheld; and the form of certificate provided for use of owners of coupon bonds may be used by owners of registered bonds for the purpose of claiming this exemption.

Where, because of failure to file certificates claiming exemption, in compliance with above regulations, a part of the income from interest on registered bonds has been withheld for the payment of the normal income tax, debtors may, upon the filing of the proper certificates as provided in Article 42, Income Tax Regulations, to the extent of exemption claimed, release and pay to the persons entitled thereto the amount of such income so withheld.

FEDERAL INCOME TAX

(T. D. 1976—See 1998.)

Supplemental regulations prescribing revised forms of certificates of ownership, exemption, and substitute certificates in lieu of such certificates now in use.

The following certificates are prescribed in lieu of certificates now in use, and are to be used in complying with the income-tax regulations requiring the filing of certificates when presenting coupons or interest orders for collection:

Revised Form 1000.

Ownership Certificate—Individual—EXEMPTION NOT CLAIMED. shall be in the following form and shall be printed on white paper:

Form
1000.
Revised.

OWNERSHIP CERTIFICATE—INDIVIDUAL—EXEMPTION NOT CLAIMED.
(To be furnished with coupons or interest orders showing ownership of bonds.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.....
(Date of maturity of interest.)

Amount of coupon or registered interest, \$.....

I do solemnly declare that I am a citizen or resident of the United States and am the owner of the above-described bonds from which were detached the accompanying coupons, or from which I am entitled to the above-described registered interest, and that all of the information as given in this certificate is true and correct. I do not now claim exemption from having the normal tax of 1 per cent withheld from said income by the debtor at the source.

Date,....., 191.....

.....
(Usual business signature of owner of bonds.)

.....
(Full post-office address of owner.)

NOTE 1.—To be filled in only when duly authorized agent executes this certificate for owner, in which case the name and address of owner must be given and collecting agent first receiving certificate must stamp across face, "Satisfied as to identity and responsibility of agent" (giving name and address of collecting agent).

NOTE 2.—If securities are owned jointly by several persons one may sign, and the names, addressee, and proportion of ownership of each indorsed on the back hereof.

NOTE 3.—When numbers of bonds are required to be given, same are to be entered on back hereof.

.....
By..... Agent.
(Usual business signature of agent authorised to sign for owner.)

.....
(Full post-office address of agent.)

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

TRUSTEES
INTERNAL REVENUE—INCOME TAX.

TREASURY DEPARTMENT SPECIAL RULINGS **189**

On the back of said certificate there shall be printed, for the use of joint owners of bonds, the following form, to wit:

JOINT OWNERS.

If securities described on other side are owned jointly, the names and addresses of owners and the proportion of ownership of each should be given.

Names	Full Post-office Addresses	Proportion Owned
.....
.....
.....

Revised Form 1000 B.

Ownership Certificate—Individual—EXEMPTION CLAIMED.

shall be in the following form, and shall be printed on yellow paper:

**Form
1000 B.
Revised.**

OWNERSHIP CERTIFICATE—INDIVIDUAL—EXEMPTION CLAIMED.
(To be furnished with coupons or interest orders showing ownership of bonds and amount of exemption claimed under paragraph C of the Federal income tax law.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.....
(Date of maturity of interest.)

Amount of coupon or registered interest, \$.....
Total exemption allowed under paragraph C, \$.....
Amount of exemption now claimed, \$.....

I do solemnly declare that I am a citizen or resident of the United States and am the owner of the above-described bonds from which were detached the accompanying coupons, or from which I am entitled to the above-described registered interest, and that all of the information as given in this certificate is true and correct.

Date, 191.....

.....
(Usual business signature of owner of bonds.)

.....
(Full post-office address of owner.)

.....
By Agent.
(Usual business signature of agent authorised to sign for owner.)

.....
(Full post-office address of agent.)

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

**TREASURY DEPARTMENT,
INTERNAL REVENUE—INCOME TAX.**

FEDERAL INCOME TAX

On the back of said certificate there shall be printed, for the use of joint owners of bonds, the following form, to wit:

JOINT OWNERS.

If securities described on other side are owned jointly, the names and addresses of owners and the proportion of ownership of each should be given.

Names	Full Post-office Addresses	Proportion Owned
.....
.....
.....

Revised Form 1001.

Ownership Certificate—FIRMS AND ORGANIZATIONS.

shall be in the following form, and shall be printed on yellow paper:

Form
1001.
Revised.

OWNERSHIP CERTIFICATE—FIRMS AND ORGANIZATIONS.
(Showing ownership of bonds, which is to be furnished by firms or organizations not subject to withholding of tax on interest at source.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)
....., 191.....

(Date of maturity of interest.)

Amount of coupon or registered interest, \$.....

I do solemnly declare that the firm or organization named below, and of which I am a member or an officer, is the owner of the above-described bonds from which were detached the accompanying coupons, or upon which there is due the above-described registered interest, and that under the provisions of the Income Tax Law and Regulations said interest is exempt from having the tax withheld at the source, and that all the information given herein is true and correct.

Date,....., 191.....

.....
(Name of firm or organisation.)

By.....
(Signature of person duly authorized to sign, and his official position.)

Address :
(Give full post-office address of firm or organisation.)

NOTE.—When numbers of bonds are required to be given, same are to be entered on back hereof.

TREASURY DEPARTMENT,
INTERNAL REVENUE—INCOME TAX.

Revised Form 1002.

CERTIFICATE FOR USE OF FIRST BANK OR COLLECTING AGENCY.

shall be in the following form, and shall be printed on green paper:

Form
1002.
Revised.

CERTIFICATE OF BANK OR COLLECTING AGENCY.

(To be presented with coupons or interest orders when not accompanied by certificates of owners.)

.....

(Give name of debtor.)

.....

(Full description of bonds, giving name of issue and interest rate.)

....., 191.....
(Date of maturity of interest.)

Amount of coupon or registered interest, \$.....

I (we) do solemnly declare that the bank or collecting agency named below has purchased or accepted for collection the accompanying coupons or interest orders from

....., of....., and
(Name of party from whom received.) (Full post-office address of said party.)

that no certificate of ownership accompanied said coupons or interest orders, and that I (we) have no knowledge as to who is the owner or owners of the bonds (except as noted on back hereof)* upon which the above-described interest is due, and the bank or collecting agency hereby acknowledges responsibility of withholding therefrom the normal income tax of 1 per cent, in accordance with the regulations of the Treasury Department.

Date,....., 191.....
.....
(Bank or collecting agency.)

By.....
(Signature of officer authorised to sign, and official position.)

.....
(Full address of bank or withholding agency.)

*Note.—If the ownership of bonds is known to person signing this certificate, he must give the name and address of the owner on the back hereof.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

TREASURY DEPARTMENT,
INTERNAL REVENUE—INCOME TAX.

FEDERAL INCOME TAX

Revised Form 1004.

Ownership Certificate—NONRESIDENT ALIENS.

shall be in the following form, and shall be printed on yellow paper:

Form
1004.
Revised.

OWNERSHIP CERTIFICATE—NONRESIDENT ALIENS.

(To be furnished with coupons detached from bonds or other obligations owned by citizens or subjects, firms, corporations, or organizations of foreign countries and who are not residents of the United States.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.....
(Date of maturity of interest.)

Amount of coupon or registered interest, \$.....

I do solemnly declare that the owner of the bonds from which were detached the accompanying coupons, or upon which there matured the aforesaid registered interest, is a nonresident alien in respect to the United States, and is exempt from the income tax imposed on such income by the United States Government under the law enacted October 3, 1913; that no citizen of the United States wherever residing, or foreigner residing in the United States or in any of its possessions, has any interest in said bonds; and that all of the information as given in this certificate is true and correct.

Date,....., 191.....

.....
(Signature of owner or, if organization, name.)

.....
(If organization, signature of official authorized to sign, and official position.)

.....
(Full post-office address of owner.)

NOTE.—When numbers of bonds are required to be given, same are to be entered on back hereof.)

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

TREASURY DEPARTMENT,
INTERNAL REVENUE—INCOME TAX.

Revised Form 1007.

CERTIFICATE CLAIMING EXEMPTION.

allowed citizens and resident aliens under paragraph C, shall be in the following form, and shall be printed on yellow paper:

Form
1007.
Revised.

TREASURY DEPARTMENT,
INTERNAL REVENUE-INCOME TAX.

EXEMPTION CERTIFICATE—

(For claiming exemption at the source as provided in paragraph C of the Federal income tax law of October 3, 1913.)

To.....
(Give name of withholding agent.)

.....
(Full post-office address.)

I hereby serve you with notice that I am single—married, with my (wife—husband) living with me, and that I now claim the benefit of the exemption of \$....., as allowed in paragraph C of the Federal Income Tax Law of October 3, 1913 (my total exemption under said paragraph being \$.....).

Date....., 191.... Signed:.....

Address:
(Full post-office address.)

Note.—Claim for exemption on Form 1007 can be filed with the debtor or withholding agent at any time, not less than 30 days prior to March first next succeeding the year for which exemption is claimed.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

FEDERAL INCOME TAX

Revised Form 1015.

Ownership Certificate—FIDUCIARY, THE SOURCE.

shall be in the following form, and shall be printed on yellow paper:

Form
1015.
Revised.

OWNERSHIP CERTIFICATE—FIDUCIARY, THE SOURCE.

(To be filed with debtor or withholding agents by fiduciaries claiming exemption from withholding at the source.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191....
(Date of maturity of interest.)

Amount of coupon or registered interest, \$.....

I (we) do solemnly declare that the estate or trust named below is the owner of the above-described bonds from which were detached the accompanying coupons, or upon which there is due the above-described registered interest, and acting for the estate or trust in the capacity herein stated, I (we) hereby declare that I (we) do now claim exemption from having the normal tax of 1 per cent withheld from said income by the debtor at the source. I (we) hereby assume the duty and responsibility, imposed upon withholding agents under the law, of withholding and paying the income tax due for which I (we) may be liable.

.....
(Name of fiduciary.)
(Capacity in which acting.)

Date....., 191.... For.....
(Name of estate or trust.)

.....
(Full post-office address.)

NOTE.—When numbers of bonds are required to be given, same are to be entered on the back hereof.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

Revised Form 1019.

Certificate of Ownership—FIDUCIARY, NOT SOURCE.

shall be in the following form, and shall be printed on white paper:

Form
1019.
Revised.

OWNERSHIP CERTIFICATE—FIDUCIARY, NOT SOURCE.

(To be filed with debtor or withholding agents by fiduciaries when not claiming any exemption, as an alternative to the filing of Form No. 1015 in which exemption is claimed.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191....
(Date of maturity of interest.)

Amount of coupon or registered interest, \$.....

I (we) do solemnly declare that the estate or trust named below is the owner of the above-described bonds from which were detached the accompanying coupons, or upon which there is due the above-described registered interest, and acting for the estate or trust in the capacity herein stated, I (we) hereby declare that I (we) do not now claim exemption from having the normal tax of 1 per cent withheld from said income by the debtor at the source.

.....
(Name of fiduciary.) (Capacity in which acting.)

Date....., 191.... For.....
(Name of estate or trust.)

.....
(Full post-office address.)

Note.—When numbers of bonds are required to be given, same are to be entered on the back hereof.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

TREASURY DEPARTMENT,
INTERNAL REVENUE—INCOME TAX.

FEDERAL INCOME TAX

Form 1058.

Substitute Certificate—EXEMPTION CLAIMED.

shall be in the following form, and shall be printed on yellow paper:

Form
1058.

SUBSTITUTE CERTIFICATE—EXEMPTION CLAIMED.

(To be attached to interest coupons when the collecting agent's certificate is substituted for the certificate of owner in which exemption was claimed.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving names of issue and interest rate.)

....., 191.....
(Date of maturity of interest.)

Amount of coupon or registered interest, \$.....

Total exemption allowed under paragraph C, \$.....

Amount of exemption claimed, \$.....

I (we) do solemnly declare that the owner of the above-described bonds from which were detached the accompanying interest coupons has filed with me (us) a certificate of ownership, Form No., duly executed and filed in according to Treasury Regulations, which certificate has been indorsed by me (us) as required by Treasury Regulations, and that under the provisions of the income tax law and regulations, said interest is exempt from the withholding and payment of the income tax at the source, or that exemption was claimed as stated herein; and I (we) do hereby promise and pledge myself (ourselves) to forward the said certificate to the Commissioner of Internal Revenue, at Washington, D. C., not later than the 20th day of next month, in accordance with Treasury Regulations.

Date....., 191.....
(Name of bank or collecting agency.)

By.....
(Signature of person authorised to sign, and his official position.)

No.....
(Full post-office address of collecting agency.)

TREASURY DEPARTMENT.
INTERNAL REVENUE-INCOME TAX.

Form 1059.

Substitute Certificate—EXEMPTION NOT CLAIMED.

shall be in the following form, and shall be printed on white paper:

Form
1059.

SUBSTITUTE CERTIFICATE—EXEMPTION NOT CLAIMED.

(To be attached to interest coupons when collecting agent's certificate is substituted for certificate of owner in which exemption was not claimed.)

.....
(Give name of debtor.)

.....
(Full description of bonds, giving name of issue and interest rate.)

....., 191.....
(Date of maturity of interest.)

Amount of coupon or registered interest, \$.....

I (we) do solemnly declare that the owner of the above-described bonds from which were detached the accompanying coupons has filed with me (us) a certificate of ownership, Form No....., duly executed and filled in according to Treasury Regulations, which certificate has been indorsed by me (us) as required by Treasury Regulations, and which certificate did not claim any exemption from having the normal tax of 1 per cent withheld by the debtor at the source; and I (we) do hereby promise and pledge myself (ourselves) to forward the said certificate to the Commissioner of Internal Revenue, at Washington, D. C., not later than the 20th day of next month, in accordance with Treasury Regulations.

Date....., 191.....
(Name of bank or collecting agency.)

By.....
(Signature of person authorized to sign,
and his official position.)

No.....
(Full post-office address of collecting agency.)

All certificates shall be, in size, 8 by 3½ inches, and shall be printed to read from left to right along the 8-inch dimension.

TREASURY DEPARTMENT,
INTERNAL REVENUE-INCOME TAX

All certificates *claiming exemption* shall be printed on yellow paper; all certificates *not claiming exemption* shall be printed on white paper; and certificate Form 1002, for use by the first bank or collecting agency, shall be printed on green paper.

All paper upon which certificates shall be printed shall correspond in weight and texture to white writing paper 21 by 32, about 40 pounds to the ream of 500 sheets.

Certificates heretofore authorized, when properly executed, will be accepted up to October 1, 1914.

The revised certificates hereby provided will be printed by the Government and furnished without cost for the use of bond owners.

All existing regulations which may be in conflict with the prescriptions of this regulation are hereby superseded.

¹Individuals or organizations desiring to print their own certificates may do so, but certificates so printed must conform in size and be printed in similar type, upon the same color, shade, and weight of paper as used by the Government.

W. H. OSBORN,

Approved: *Commissioner of Internal Revenue.*

W. G. McADOO,

Secretary of the Treasury.

(T. D. 1977.)

Ownership certificate to be executed by foreign banks, bankers, etc., claiming exemption of nonresident alien from income tax on interest on bonds owned by said nonresident alien, viz., citizens or subjects, firms, corporations, or organizations of foreign countries who are not residents of the United States.

For the purpose of complying with income-tax regulations requiring the filing of certificates of ownership of bonds when presenting coupons or interest orders for collection of interest

¹NOTE.—Sample certificates showing size of type and color of paper can be secured from collectors of internal revenue in their several districts or from the Commissioner of Internal Revenue at Washington, D. C.

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on bonds of domestic corporations of the United States owned by nonresident aliens as to the United States, a certificate in the form following is provided, which may be executed by responsible banks or bankers in foreign countries for and in behalf of nonresident alien owners of bonds of United States corporations:

Form
1060.

OWNERSHIP CERTIFICATE—NONRESIDENT ALIEN—TO BE EXECUTED
BY BANKS, BANKERS, ETC.

(For use by foreign banks or bankers, to accompany coupons detached from bonds or other obligations owned by citizens or subjects, firms, corporations, or organizations of foreign countries, and who are not residents of the United States.)

(Give name of debtor.)

(Full description of bonds, giving name of issue and interest rate.)

-----, 191... Amount of coupon or registered interest, \$....
(Date of maturity of interest.)

I (we) do solemnly declare that the owners of the bonds from which were detached the accompanying coupons or upon which there matured the aforesaid registered interest are nonresident aliens as to the United States and are exempt from the income tax imposed on such income by the United States Government under the law enacted October 3, 1913; that no citizen of the United States, wherever residing, or foreigner residing in the United States or in any of its possessions, has any interest in said bonds; and that all of the information as given in this certificate is true and correct. I (we) hereby agree that if at any time within three years from the date of this certificate it shall appear that the income or any part thereof represented or covered by this certificate was or is subject to the normal tax imposed by the United States, upon presentation of proof of that fact to me (us) by, from, or through the Commissioner of Internal Revenue, Washington, D. C., I (we) will pay and remit to the United States Government the amount of tax claimed to be due; and I (we) hereby further agree that whenever in the judgment of the Commissioner of Internal Revenue it shall be necessary in or to the administration of the income tax law, I (we) will, upon request of the said Commissioner of Internal Revenue, disclose and furnish to him the names and addresses of the owners and the amounts of the bonds aforesaid.

Date, -----, 191... -----
(Name of bank or banker.)

By.....
(Signature of official authorized to sign.)

(Official position.)

(Full post-office address of bank or banker.)

NOTE.—When numbers of bonds are required to be given, same are to be entered on back hereof.

(SIGNATURES MUST BE CLEARLY AND LEGIBLY WRITTEN.)

When foreign banks or bankers shall use the foregoing certificate, they may include in one certificate all the coupons from bonds of the same class and same issue, and may include

TREASURY DEPARTMENT,
INTERNAL REVENUE—INCOME TAX.

in one certificate all the interest orders or checks for interest on registered bonds of the same class and same issue.

The above certificate shall be in size 8 by 3½ inches, and shall be printed to read from left to right along the 8-inch dimension.

The certificate shall be printed on yellow paper and such paper shall correspond in weight and texture to white writing paper 21 by 32, about 40 pounds to the ream of 500 sheets.

The revised certificate hereby authorized will be printed by the Government and furnished without cost.

Individuals or organizations desiring to furnish their own certificates may do so, but certificates so printed must conform in size to that prescribed above and be printed in similar type upon the same color, shade, and weight of paper as used by the Government.

Sample certificates showing size of type and color of paper can be secured from collectors of internal revenue in their several districts, or from the Commissioner of Internal Revenue, Washington, D. C.

(T. D. 1986.)

Execution of income tax substitute certificates 1058 and 1059 by banks or collecting agents.

You are advised that as a convenience to banks and collecting agents who desire to substitute their certificates, Forms 1058 and 1059, for the owner's certificate accompanying the coupons deposited for collection, it is hereby provided that the name of the bank or collecting agent may be printed or stamped, and that a facsimile of the signature of the person authorized to sign the substitute certificate for the bank or collecting agent may also be printed or stamped on the certificate: *Provided*, that in all cases the bank shall first file with the Commissioner of Internal Revenue a certificate of its authorization in substantially the form following:

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(City.) (Date.)

The COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C.

The undersigned hereby authorizes the use of the facsimile signature shown below upon all substitute income tax certificates issued in its name until this authorization is revoked by written notice to you.

(Name of bank or collecting agent.)

By.....
(Signature of person authorized to sign.)

(Facsimile signature of person au-
thorised to sign.)

(Official position.)

(T. D. 1988.)

Certificate of Ownership of Bonds—Nonresident Alien.

(Form 1060) provided to be executed by foreign banks or bankers may be used by domestic banks or bankers.

The provisions of T. D. 1977 permitting responsible banks or bankers of foreign countries to execute certificates of ownership (Form 1060) for nonresident alien owners of bonds of domestic corporations are hereby extended to and for the use of responsible banks or bankers in the United States for and in behalf of nonresident alien owners of bonds of United States corporations.

(T. D. 1989.)

Designation of losses which are deductible from gross income within a taxable year.

Several letters have been received in which inquiry has been made as to whether losses resulting from the sale of real estate

by individuals are properly deductible from gross income in the returns of annual net income of individuals for the income tax.

Under paragraph B of the Income Tax Law it is provided that among the deductions to be allowed shall be "losses actually sustained during the year, incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise."

Losses arising from fires, storms, or shipwreck and not compensated for by insurance or otherwise are easily ascertained and there would not appear to be any chance of an erroneous construction as to these. Losses actually sustained during the year incurred in trade are limited by the language of the act itself.

"In trade" is synonymous with *business*.

"Business" has been defined as—

That which occupies and engages the time, attention, and labor of any one for the purpose of livelihood, profit, or improvement; that which is his personal concern or interest; employment, regular occupation, but it is not necessary that it should be his sole occupation or employment.

The doing of a single act incidentally or of necessity not pertaining to the particular business of the person doing the same will not be considered engaging in or carrying on the business.

It is therefore held that no losses are deductible in a return of income save and only those losses permitted and provided for by the statute, viz., those actually sustained during the year—

Which are "incurred in trade,"

Or which arise from "fires, storms, or shipwreck and not compensated for by insurance or otherwise."

(T. D. 1992—See T. D. 2006.)

Bonds of foreign corporations payable, as to interest, wholly within the United States, or within or without the United States, at the option of the owner of the bonds, to be treated for income-tax purposes as domestic bonds when accompanied by certificates of ownership properly executed.

Where foreign corporations have an issue of bonds, the interest upon which is payable wholly within the United States, or within or without the United States, at the option of the owners of the bonds, in all cases where said foreign corporations have fiscal agents within the United States and the said bonds are owned by citizens of the United States or aliens resident within the United States, the collection of interest on said bonds shall be considered to be and be treated as a domestic transaction upon the filing with said coupons certificates of ownership properly executed: *Provided*, That whenever coupons from foreign bonds not accompanied by certificates of ownership are presented for collection they shall be treated as foreign items, and the first bank or collecting agency receiving or accepting the same for collection or otherwise shall deduct, withhold, and pay the tax as provided by income-tax regulations for the collection of foreign income.

Where a foreign corporation has an issue of registered bonds, the interest on which is payable through a fiscal agent in the United States, certificates of exemption may be filed with said fiscal agent in manner and form as prescribed by T. D. 1974, and payment by said fiscal agent shall be made in accordance with the provisions of T. D. 1974.

(T. D. 1993.)

Interest paid on indebtedness wholly secured by collateral the subject of sale in the ordinary business of a corporation may be deducted as a part of its expense of doing business.

This office is in receipt of numerous letters asking a ruling of this office as to the application of the following proviso

quoted from subdivision (b) of subsection G of section 2, act of Congress approved October 3, 1913, to wit:

Provided, That in the case of indebtedness wholly secured by collateral the subject of sale in the ordinary business of such corporation, joint-stock company or association, the total interest secured and paid by such company, corporation, or association, within the year on any such indebtedness may be deducted as a part of its expense of doing business.

Many of these inquiries come from corporations engaged in buying and selling real estate, which real estate is pledged for the payment of indebtedness, and the question submitted is whether or not such real estate is "collateral" within the meaning of the proviso quoted and whether or not corporations paying interest on indebtedness wholly secured by such collateral may deduct from gross income as "an expense of doing business" the amount of interest paid on such indebtedness.

Relative to this you are informed that "collateral," as used in this proviso, comprehends and includes real estate or any form of physical or tangible property bound for the performance of certain covenants, the payment of certain obligations, and if such real estate or other physical or tangible property is the "subject of sale in the ordinary business of the corporation" owning the same, that is, if such corporation is, as a matter of its ordinary business, engaged in buying and selling, or dealing in such property, the interest actually paid within the year on indebtedness wholly secured by such collateral (a mortgage on such property) may be allowably deducted from gross income under item 4 (a) of the return form as an expense of doing business, without regard to the limit of deductible interest as set out in subdivision "Third," paragraph (b), subsection G of the Federal Income Tax Law hereinbefore cited.

This construction of the proviso quoted is not intended to and does not authorize the deduction as "an expense of doing business" of any interest paid or indebtedness secured by property, real or personal, which is not the "subject of sale in

the ordinary business of the corporation," but which is held by it for the purpose of, or as an instrument in carrying on, its ordinary business—such as the rights of way and other property of public utility companies, permanent office buildings and property of like character held or occupied for their own particular use or purpose in the furtherance of the objects of the corporation, but which property is not the subject of sale in their ordinary business, and which is simply occupied or used as an instrument or means of, or essential to, the carrying on of the ordinary business for the transaction of which they are organized. The fact that such property may be subject to sale under extraordinary or peculiar conditions does not qualify, but rather disqualifies, it as "collateral" such as is contemplated by this provision of the act cited.

The only corporations, joint-stock companies, or associations which will be allowed under this proviso as herein interpreted to deduct as "an expense of doing business" interest paid on indebtedness wholly secured by mortgage on real estate, or other physical and tangible property, are those corporations, joint-stock companies, or associations which are organized and operated for the exclusive purpose of buying, selling, and dealing in the particular kind of property upon which the mortgage is given, and the particular property pledged for the debt upon which the interest is paid must be the "subject of sale in the ordinary business of the corporation."

Any corporation whose indebtedness is secured by a trust, mortgage, or by any form of indenture which covers and includes in the lien any property which is not the subject of sale in the ordinary business of such corporation, will be and is excluded from the benefit of this proviso, as hereinbefore construed, and its interest deduction will be limited to the amount authorized in subdivision "Third" above referred to—that is, the interest actually paid within the year at the contract rate on an amount of bonded or other indebtedness at no time within the year in excess of a sum ascertained by adding to the paid-up capital stock outstanding at the close of the

year one-half of the total amount of the interest-bearing indebtedness also then outstanding.

Corporations which under this ruling are entitled to deduct as "an expense of doing business" the total amount of interest paid within the year on "indebtedness wholly secured by collateral the subject of sale in the ordinary business of such corporations," are required to state separately in their returns the amount of indebtedness upon which such interest is paid, segregating it from the indebtedness not so secured and upon which the interest paid is taken credit for or deducted under item 6 (a) of the return form. The interest-bearing indebtedness stated under item 2 of the return form as one of the bases for determining the amount of interest which may be allowably deducted under item 6 (a) must not include any "indebtedness wholly secured by collateral the subject of sale in the ordinary business of the corporation." Failure to segregate the two forms of indebtedness will render the interest deduction under item 6 (a) subject to suspension and disallowance.

(T. D. 1996.)

Coöperative dairies and like organizations do not fall within the classes of organizations enumerated in subsection G, section 2, act of October 3, 1913, as exempt, and are required to make returns of annual net income.

Attention is called to Article 92 of Regulations No. 33, approved January 5, 1914, in which it is provided that co-operative dairies not issuing stock and allowing patrons dividends based on the percentage of butterfat in milk furnished are not liable to the requirements of section 2, act of October 3, 1913.

This article is amended to the effect that coöperative dairy associations, whether issuing capital stock or not, are required to make returns of annual net income pursuant to the requirements of this act.

The only corporations, joint-stock companies or associations, or insurance companies exempt from the requirements of this act are those which fall within one or another of the classes specifically enumerated in the first proviso of subsection G of the act cited as exempt.

Coöperative dairies, no matter how organized, do not appear to fall within any of these exempted classes, and will, therefore, be required to make returns.

In the preparation of their returns, coöperative dairies may include in their deductions from gross income the amount actually paid to members and patrons for milk, but any amount retained at the end of the year over and above expenditures will be returned as net income, upon which the tax will be computed and assessed.

In so far as Article 92, hereinbefore referred to, is in conflict with this ruling, it is hereby revoked, and collectors will require all organizations of this character to make returns of annual net income and in other respects comply with the requirements of the Federal Income Tax Law as it applies to corporations, joint-stock companies or associations, and insurance companies.

In so far as applicable, this ruling also applies to mutual or coöperative telephone companies, farmers' insurance companies, and like organizations.

(T. D. 1997.)

Monthly list returns not to be made under oath.

The requirement that monthly list returns be made under oath (as provided by Articles 35, 50, 53, and 59, Income Tax Regulations No. 33, when filed by withholding agents on or before the 20th of the month following that in which withholding occurred) is hereby waived.

In all cases the annual list return required of withholding agents (of which the monthly list returns will form a part

as required by regulations) will be made, sworn to, and filed as now required by existing regulations, and the jurat for the annual list return will cover the entire return as thus made up.

(T. D. 1998.)

Exemption certificate provided for use of firms, organizations, and fiduciaries claiming exemption from withholding of tax at source on income other than interest on bonds.

The following certificate is hereby provided for use of firms, organizations, and fiduciaries for the purpose of establishing their identity and nonliability to withholding at the source of income (other than interest on bonds) payable to them. Said certificates shall be of the size and be printed on yellow paper of the weight and texture all as provided by T. D. 1976, the requirements of which are hereby made applicable to the certificate hereby provided.

(Form 1063.)

EXEMPTION CERTIFICATE—FIRMS, ORGANIZATIONS, OR FIDUCIARIES.

(For use of firms, organizations, or fiduciaries entitled to receive income *other than from interest on bonds* to establish their identity and nonliability to withholding at the source.)

(Give name of debtor.)

(Character of income, other than interest on bonds, as rent, dividends from foreign corporations, etc.)

I do solemnly declare that the firm, organization, or person named below is entitled to receive the above-described income, and that under the provisions of the income tax law and regulations said income is exempt from having the tax withheld at the source, and that all the information given herein is true and correct.

Date,....., 191....
(Name of firm, organisation, or fiduciary.)

By.....
(Signature of person duly authorized to sign for firm or organisation and his official position or name of trust.)

Address.....
(Give full post-office address of firm or organisation or fiduciary.)

The exemption certificate provided for the use of individuals is Form 1007, which will be used by individuals in all cases except for interest on bonds, for which Forms 1000 and 1000B are provided.

(T. D. 2001—See 2029.)

Corporations desiring to make returns of annual net income on the basis of a fiscal year must give notice in writing to the collector not less than 30 days prior to March 1, designating in such notice the last day of some month as the close of the fiscal year. Failure to give such notice at least 30 days prior to March 1, or to make return for the preceding calendar year on or before March 1, renders corporations liable to additional tax and penalty.

Your attention is called to the following provision quoted from paragraph O, subsection G of section 2, act of October 3, 1913:

The tax herein imposed shall be computed upon its entire net income accrued within each preceding calendar year ending December thirty-first; * * * *Provided further*, That any corporation, etc., subject to this tax may designate the last day of any month in the year as the day of the closing of its fiscal year and shall be entitled to have the tax payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated * * * and it shall give notice of the day it has thus designated as the closing of the fiscal year to the collector of the district in which its principal business office is located at any time not less than thirty days prior to the date upon which its annual return shall be filed.

Except as provided in the act, all corporations are required to make their returns of annual net income on the basis of the calendar year and to file such returns on or before the 1st day of March next following. March 1 is, therefore, the primary due date for the returns of all corporations. This due date can be postponed only in accordance with some legal or authorized action. Unless such action is taken within the prescribed time, or the returns filed on or before March 1, all corporations in existence at the preceding December 31 and

failing to take such action, or so file their returns for the period ended December 31, will be held to be delinquent, and will be subject to 50 per cent additional tax and the penalty of the law.

The filing of returns at any date other than on or before March 1 and on a basis other than the calendar year can be authorized only in cases wherein corporations, not less than 30 days prior to March 1, give notice in writing to the collector of the district in which are located their principal places of business, designating in such notice the last day of some month as the close of their fiscal year. In this case the corporations will make their returns for the year so established, and will file their returns on or before the last day of the 60-day period next following the date designated as the close of the fiscal year.

For the purpose of the income tax law, a fiscal year, when designated, must be so designated that the return made on this basis will not comprehend a period greater than 12 consecutive months. If the required notice is delayed until it cannot be given at least 30 days prior to March 1, or if the date designated as the close of the fiscal year comprehends a period greater than 12 months from the close of the period for which the last prior return was made, the returns must be made as of the calendar year and must be filed on or before March 1 until such time as a fiscal year for this purpose can be legally established.

If a corporation which shall have filed, on or before March 1, its return for the preceding period ended December 31, desires to establish, as a basis for making future returns, a fiscal year ended at some date prior to the next December 31, it may do so by filing, at least 30 days prior to the date when its returns, on a fiscal year basis, will be due, a notice with the collector designating the last day of some month as the close of its fiscal year. It will then, on or before the last day of the 60-day period next following the date so designated, file a return covering the period from January 1 to the date

so designated in the same year, and thereafter its returns will be made for each twelve-month period next following such date.

The above rulings will apply to corporations which began business within the year, as well as to those which were in existence and transacted business throughout the year.

Any ruling or Treasury decision heretofore issued and in conflict with this decision is hereby recalled and revoked.

(T. D. 2005—See 2130 and 2090, page 12.)

Instructions and rules for determining what amount is to be allowed as a deduction for loss in a return of income.—Depreciation allowed by law does not include shrinkage in value of stocks, bonds, etc.

For the purpose of checking up returns and ascertaining the amount of taxable income of individuals and corporations you are given the following instructions and rules for use in determining the amount of deductible loss allowable to individuals and corporations under the fourth deduction (par. B, p. 5), Regulations No. 33, and second deduction, for domestic corporations (par. G, p. 14), and second deduction, for foreign corporations (par. G, p. 15), Regulations No. 33.

The loss considered here has in it no element of "depreciation," or "allowance for wear and tear," or "compensation from insurance or otherwise." It is to be such loss as is absolute and complete and which has been actually sustained.

Depreciation as an allowable deduction in ascertaining annual net income for the income tax is separately provided for and is not to be confused with loss. The depreciation provided to be taken as a deduction in a return of income is the value assigned to the deterioration of physical improvements or assets, such as are susceptible of having their value lessened through wear and tear, use or obsolescence.

The depreciation referred to in the income-tax law does not

relate to evidence of a right or interest in property, and hence any shrinkage in the value of bonds, stocks, and like securities due to fluctuations in their market value is not deductible in a return of income as depreciation or loss.

Losses may be sustained by individuals or corporations on personal or real property. Only those losses are deductible which are sustained during the tax year "in trade"—that is, the business which engages the time, attention, and labor of any one for the purpose of livelihood, profit, or improvement. Loss to be deductible must be an absolute loss, not a *speculative* or *fluctuating* valuation of continuing investment, but must be an actual loss, actually sustained and ascertained during the tax year for which the deduction is sought to be made; it must be incurred in trade and be determined and ascertained upon an actual, a completed, a closed transaction.

Losses sustained by individuals or corporations from the sale of or dealings in personal or real property growing out of ownership or use of or interest in such property will not be deductible at all unless they are an incident of, connected with, and grow out of the *business* of the individual or corporation sustaining the loss, and are ascertained, determined, and fixed as absolute in the above sense within the taxable year in which the deduction is sought to be made. When loss under this heading is ascertained to be deductible, the entire amount of the loss will be deductible except where the property in connection with which the loss occurred was acquired prior to March 1, 1913, in the case of individuals, and prior to January 1, 1909, in the case of corporations, and then and in such event the loss ascertained will be prorated over the whole time the property was held, and that part of the whole loss apportioned to the taxable period will be taken into account in annual returns of income. In prorating, fractional parts of years will not be considered.

Loss is the difference between selling price and cost where the selling price is less than cost.

Cost of property purchased prior to the incidence of the special excise tax (Jan. 1, 1909), or the incidence of the

income tax (Mar. 1, 1913), will be the actual price paid for the property, including the expense incident to the procurement of the property in the first instance and its sale thereafter, together with carrying charges of interest, insurance, and taxes actually paid prior to the incidence of tax (special assessments, if any, "actually paid" as "local benefits" in connection with real estate); provided that where, up to the incidence of the tax, the expense of carrying property has exceeded the income from it, the difference between the expense of carrying and the income from the property shall be added to the purchase price and the sum thus ascertained shall be the cost of the property; and provided further, that in the case of property purchased prior to the incidence of the tax and sale thereof subsequent to the incidence of the tax there shall be excluded from consideration in ascertaining cost any items of income, expense, interest, and taxes previously taken into account in preparing a return of annual net income.

The cost of property acquired subsequent to the incidence of the tax will be the actual price paid for it, together with the expense incident to the procurement of the property in the first instance and its sale thereafter and the cost of improvement or development, if any.

All existing rulings and regulations in conflict herewith are hereby annulled and superseded.

(T. D. 2006.)

Definition of "foreign corporation" and "fiscal agent" as used in T. D. 1992, and further explanation of method of handling collection of income from bonds of such foreign corporations and foreign countries having fiscal agents in the United States.

Doubt having arisen as to the comprehensiveness of the term "foreign corporation," and the duties under the income tax law of "fiscal agents," as provided in T. D. 1992, you are

advised that "foreign corporations" as used in said decision was intended to include municipal and private corporations holding charters under laws of countries foreign to the United States, and "fiscal agents" refers to financial agents in the ordinary sense, upon whom the law casts the same duties with reference to withholding and paying the tax as are imposed upon withholding and paying agents of domestic corporations by appointment.

Where a foreign government has a fiscal agent in the United States for the purpose of paying the interest on its obligations, such fiscal agent will be charged with the duty of withholding and paying the tax on such interest payments, except to the extent of exemption claimed.

Where such foreign countries or corporations have an issue of bonds payable wholly within the United States or within or without the United States, at the option of the owner of the bonds, and where the coupons from such bonds are presented for payment to the fiscal agent in the United States of such foreign countries or corporations or for collection to a bank or collecting agency whether licensed or not, with ownership certificate attached, then and in all such cases said coupons shall be treated as domestic items and the aforesaid fiscal agents will be charged with the duties and responsibilities of withholding and paying agents, and will make return on Form 1012, as provided by income tax regulations.

Where, however, such coupons are not presented with such ownership certificates attached, they shall be received only by a licensed bank or collecting agency, and when so received shall be considered to be and be treated as foreign items, in accordance with the regulations for the collection of foreign income.

This ruling is made in explanation and amendment of T. D. 1992 and other applicable regulations.

(T. D. 2011.)

Taxability of commissions on renewal premiums on insurance.

Commissions on renewal premiums for insurance are income when received and income for the period in which received. Therefore, commissions on renewal premiums received between March 1 and December 31, 1913, are taxable income for that period and should be included in returns of income for 1913.

Where commissions on renewal premiums received by individuals between March 1 and December 31, 1913 (including commissions on renewal premiums on business written prior to March 1, 1913, and payable and paid subsequent to that date), were not included in returns of income of such individuals for 1913, they should file amended returns and include in such amended returns the amount of said commissions on renewal premiums.

Where returns of annual net income were not made by individuals in receipt of commissions on renewal premiums because of insufficient income to require a return of income, and such showing of insufficient income was caused by the exclusion from the return of said commissions on renewal premiums, such individuals should make and file returns of income and include therein the commissions received by them on renewal premiums within the period from March 1 to December 31, 1913.

(T. D. 2012.)

Extending exemption certificate No. 1063, as prescribed in T. D. 1998, to nonresident alien individuals.

Exemption certificate 1063, as provided in T. D. 1998, is hereby extended to and made applicable to the use of persons who are nonresident aliens in claiming exemption from income tax on dividends payable in the United States from stock of foreign corporations.

(T. D. 2013.—See 2109 and 2242.)

Nonresident aliens—Amendment of article 8 of Regulations 33, providing for the collection of tax on income of nonresident aliens derived from trades or professions in the United States.

Article 8, Income Tax Regulations 33, is hereby amended by adding thereto the following:

The person, firm, company, copartnership, corporation, joint-stock company or association, and insurance company in the United States —citizen or resident alien—in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodical gains, profits, and income, of whatever kind, to a nonresident alien, under any contract or otherwise, and which payment shall represent income of a nonresident alien from the exercise of any trade or profession within the United States, shall make return for such nonresident alien on Form 1040 and shall pay any and all tax—normal and additional tax—chargeable upon the said income of such nonresident alien.

(T. D. 2109.)

So that Article 8 as amended shall read:

ART. 8. The income of nonresident aliens subject to the normal tax of 1 per cent shall consist of the total gains, profits, and income derived from all property owned and from every business, trade, or profession carried on within the United States (to be designated as gross income), less deductions (1 to 8, inclusive) specifically enumerated in paragraph B of the act (see Art. 6), in so far as said deductions relate to said gains, profits, etc.

The specific exemption in paragraph C of the act cannot be allowed as a deduction in computing the normal tax of nonresident aliens.

Nonresident aliens are subject to additional or surtax the same as prescribed in the case of citizens of the United States or persons residing in the United States.

The responsible heads, agents, or representatives of said nonresident aliens who are in charge of the property owned or business carried on shall make full and complete return of the income therefrom on Form 1040 and shall pay any and all tax, normal and additional, assessed upon the said income of such nonresident aliens.

The person, firm, company, copartnership, corporation, joint-stock company or association, and insurance company in the United States —citizen or resident alien—in whatever capacity acting, having the

control, receipt, disposal, or payment of fixed or determinable annual or periodical gains, profits, and income, of whatever kind, to a non-resident alien, under any contract or otherwise, which payment shall represent income of a nonresident alien from the exercise of any trade or profession within the United States, shall deduct and withhold from such annual gains, profits and income, regardless of amount, and pay to the officer of the United States Government authorized to receive the same, such tax as will be sufficient to pay the normal tax of 1 per cent imposed thereon by law, and shall make an annual return on Form 1042.

(T. D. 2015.)

Compromises—Minimum amounts which will be accepted.

To collectors of internal revenue:

The fact has been developed that a great number of individuals and corporations failed to make returns of annual net income for the income tax, either through ignorance of the requirements of the law or through a misunderstanding of its requirements, and it has been determined by the Treasury Department to accept offers in compromise of the specific penalty for failure to file returns within the period prescribed by law in a minimum sum, as follows: \$5 from individuals, \$10 from corporations which are organized for profit.

In the cases of all corporations not organized for profit, the specific penalty will not be asserted this year, provided the required return has been or shall be filed before December 31, 1914. The United States District Attorney should be requested not to institute proceedings in such cases.

The foregoing applies only to those cases where there was no intent to evade the law or escape taxation.

In all cases, however, wherein a return is not made until the liability to make a return is discovered by investigation of collectors of internal revenue or revenue agents, the above schedule will not necessarily apply, but each individual case will be decided upon its own merits and the amount of the offer in compromise which may be favorably considered will be determined accordingly.

(T. D. 2016.)

Inspection of income tax returns—Executive order—Regulations.

The following Executive order, together with regulations signed by the Secretary and approved by the President, relative to the publicity feature of section 2 of the act of October 3, 1913, imposing an income tax, is hereby published for your information.

EXECUTIVE ORDER.

Pursuant to the provisions of Section 2 of the Tariff Act of October 3, 1913, said section providing for an income tax, and which contains in paragraph G, sub-paragraph (d) the following provision,

When the assessment shall be made, as provided in this section, the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President: *Provided further*, That the proper officers of any State imposing a general income tax may, upon the request of the Governor thereof, have access to said returns or to any abstract thereof, showing the name and income of each such corporation, joint-stock company, association or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe,

it is hereby ordered, that all such returns shall be subject to inspection in accordance and upon compliance with rules and regulations prescribed by the Secretary of the Treasury and approved by the President, bearing even date herewith.

Woodrow Wilson.

THE WHITE HOUSE, July 28, 1914.

[No. 1999.]

INSPECTION OF RETURNS.

Regulations governing the inspection of returns of corporations, joint-stock companies, associations, or insurance companies, made in compliance with the requirements of section 2, act of October 3, 1913. Returns of individuals are not open to the inspection of any one except the proper officers and employees of the Treasury Department.

TREASURY DEPARTMENT,

WASHINGTON, D. C., July 28, 1914.

By section 2 of the act of October 3, 1913, Congress imposed a tax upon the entire net income arising or accruing from all sources to every citizen of the United States, whether residing at home or abroad, and to every person residing in the United States, though not a citizen thereof, and upon the entire net income from all property owned and of every business, trade, or profession carried on in the United States by persons residing elsewhere, and upon every cor-

poration, joint-stock company or association, and every insurance company, with certain exceptions, engaged in business in the United States, and prescribed the method of handling the returns of annual net income filed in compliance with said law, as follows:

(d) When the assessment shall be made, as provided in this section, the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President: *Provided further*, That the proper officers of any State imposing a general income tax may, upon the request of the Governor thereof, have access to said returns or to an abstract thereof, showing the name and income of each such corporation, joint-stock company or association or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe.

For the purpose of making effective the legislative intent thus expressed, the President has ordered that such returns shall be open to inspection under the following rules and regulations. The word "corporation," when used alone herein, shall be construed to refer to corporations, joint-stock companies or associations, and insurance companies.

1. The return of every individual, and of every corporation, joint-stock company or association, and every insurance company, whether foreign or domestic, shall be open to the inspection of the proper officers and employees of the Treasury Department. Returns of individuals shall not be subject to inspection by any one except the proper officers and employees of the Treasury Department.

2. Where access to any return of any corporation is desired by an officer or employee of any other department of the Government, an application for permission to inspect such return, setting out the reasons therefor, shall be made in writing, signed by the head of the Executive Department or other Government establishment in which such officer or employee is employed, and transmitted to the Secretary of the Treasury. If the return of a corporation is desired to be used in any legal proceedings other than those to which the United States is a party, or to be used in any manner by which any information contained in the return could be made public, the application for permission to inspect such return or to furnish a certified copy thereof shall be referred to the Attorney General, and, if recommended by him, transmitted to the Secretary of the Treasury.

3. All returns, whether of persons or of corporations, joint-stock companies or associations, or insurance companies, may be furnished, upon approval of the Secretary of the Treasury, for use, either in the original or by certified copies thereof, in any legal proceedings before any United States grand jury or in the trial of any cause to which both the United States and the person or corporation or association rendering the return are parties either as plaintiff or defendant, and in the prosecution or defense or trial of which action, or

proceeding before a grand jury, such return would constitute material evidence, but in any case arising in the collection of the income tax, the Commissioner of Internal Revenue may furnish for use to the proper officer either the original or certified copies of returns without the approval of the Secretary of the Treasury. In all cases where the use of the original return is necessary, it shall be placed in evidence by the Commissioner of Internal Revenue or by some officer of the Bureau of Internal Revenue designated by him for that purpose, and after such original return has been placed in evidence it shall be returned to the files in the office of the Commissioner of Internal Revenue at Washington, D. C.

4. The Secretary of the Treasury, at his discretion, upon application to him made, setting forth what constitutes a proper showing of cause, may permit inspection of the return of any corporation by any bona fide stockholder in such corporation. The person desiring to inspect such return shall make application, in writing, to the Secretary of the Treasury, setting forth the reasons why he should be permitted to make such inspection, and shall attach to his application a certificate, signed by the president, or other principal officer, of such corporation, countersigned by the secretary, under the corporate seal of the company, that he is a bona fide stockholder in said company. (Where this certificate cannot be secured, other evidence will be considered by the Secretary of the Treasury to determine the fact whether or not the applicant is a bona fide stockholder and, therefore, entitled to inspect the return made by such company.) Upon receipt of such application the corporation whose return it is desired to inspect shall be notified of the facts and shall be given opportunity to state whether any legitimate reason exists for refusing permission to inspect its returns of annual net income by the stockholder applying for permission to make such inspection. The privilege of inspecting the return of any corporation is personal to the stockholders, and the permission granted by the Secretary to a stockholder to make such inspection cannot be delegated to any other person.

5. The returns of the following corporations shall be open to the inspection of any person upon written application to the Secretary of the Treasury, which application shall set forth briefly and succinctly all facts necessary to enable the Secretary to act upon the request:

(a) The returns of all companies whose stock is listed upon any duly organised and recognised stock exchange within the United States, for the purpose of having its shares dealt in by the public generally.

(b) All corporations whose stock is advertised in the press or offered to the public by the corporation itself for sale. In case of doubt as to whether any company falls within the classification above, the person desiring to see such return should make application, supported by advertisements, prospectus, or such other evidence as he may deem proper to establish the fact that the stock of such corporation is offered for general public sale.

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Returns can be inspected only in the office of the Commissioner of Internal Revenue, in Washington, D. C. In no case shall any collector, or any other internal revenue officer outside of the Treasury Department in Washington, permit to be inspected any return or furnish any information whatsoever relative to any return or any information secured by him in his official capacity relating to such return, except in answer to a proper subpoena, in a case to which the United States is a party.

6. Returns of individuals shall not be open to the inspection of any person other than the proper officers and employees of the Treasury Department or person rendering the same, and are under no conditions to be made public, except where such publicity shall result through the use of such returns in any legal proceedings in which the United States is a party.

7. Upon request of the Governor of a State imposing a general income tax, the proper officer of such State, to be designated by name and official position by the Governor of such State in his application to the Secretary of the Treasury, may have access to the returns or to abstracts thereof showing the name and income of each corporation, joint-stock company or association, or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe. Such application shall be made in writing, addressed to the Secretary of the Treasury and shall show (first) that the State whose Governor makes the request imposes a general income tax; (second) the name and address of each corporation, etc., to which access is desired; (third) why permission to inspect the returns of the corporations, etc., named in the request is desired, and (fourth) what officer or officers are designated to make the desired inspection, giving their names and official designations. Such request must be signed by the Governor of the State and sealed with the seal thereof, and shall be transmitted to the Secretary of the Treasury for his consideration and action thereon.

No provision is made in the law for furnishing a copy of any return to any person or corporation, and no copy of any return will be furnished to any other than the person or corporation making the return, or their duly constituted attorney, except as hereinbefore authorized.

The provisions herein contained shall be effective on and after the 1st day of September, 1914.

W. G. McADOO,
Secretary of the Treasury.

Approved:

WOODROW WILSON,

The White House, July 28, 1914.

(T. D. 2017.)

Nontaxability of interest from bonds and dividends on stock of domestic corporations owned by nonresident aliens.

Interest on bonds of domestic corporations and dividends on stock of domestic corporations owned by nonresident aliens, and whether such bonds and stock be physically located within or without the United States, are not subject to the income tax.

(T. D. 2022.)

Waiver until further notice of regulation requiring the filling in on certificates of numbers of bonds.

Notice is hereby given that regulation requiring the filling in on certificates of numbers of bonds or other like obligations of corporations, etc., from which interest coupons are detached or upon which registered interest is to be paid—which was extended to October 31, 1914, by T. D. 1985, issued May 28, 1914—is hereby waived until further notice.

(T. D. 2023.)

Amending Article 58, Income Tax Regulations 33, requiring indorsement or stamp on foreign coupons, checks, bills of exchange, etc.

Article 58, Income Tax Regulations 33, is hereby amended to read as follows:

ARTICLE 58. The licensed person, firm, or corporation first receiving such foreign items for collection, or otherwise, shall withhold therefrom the normal tax of 1 per cent, and will be held responsible therefor. If the foreign item is in the form of a check or bill of exchange, the words "Income tax withheld by _____" (giving name, address, and date) shall be indorsed or stamped thereon by such

licensee; but if the item is represented by a coupon or coupons from bonds, the licensee shall attach thereto a statement identifying the same, and the indorsement or stamp showing the tax withheld shall be placed on the statement instead of the coupon or coupons.

Said indorsement or stamp shall be sufficient evidence of tax withheld to relieve subsequent holders or purchasers from the obligations of withholding.

(T. D. 2024.)

Amendment of Article 192 of Regulations No. 33, providing that collectors should not retain copies of returns in their offices.

Referring to Article 192 of Regulations No. 33, wherein it is provided that—

Where in any case the collector has reason to believe that any return rendered is false or fraudulent, he will prepare and retain in his office a copy of such return, and will note on the original and under the head of "Remarks" of his assessment list the words "Investigation pending." He will in all such cases make his investigation in the manner prescribed in section 3173, Revised Statutes, and paragraph D of said act of October 3, 1913; and he will report the results of his investigation to the Commissioner of Internal Revenue, referring to the list, folio, and line on which the assessment was reported.

you are informed that inasmuch as these investigations are to be made by the revenue agents' force, the portion of the article of Regulations No. 33 quoted above is hereby annulled.

Collectors should not under any conditions retain copies of returns in their offices, but when information relative to any return of annual net income filed by any taxpayer is necessary in connection with the assessment and collection of the income tax the same may be secured from the Commissioner of Internal Revenue at Washington.

(T. D. 2029—See 2090, page 21.)

Corporations desiring to make returns of annual net income on the basis of a fiscal year must, not less than 30 days prior to the first day of March, give notice in writing to the collector, designating in such notice the last day of some month as the close of the fiscal year, in which case the fiscal year return will cover a 12-months period. The return for that portion of the calendar year preceding the beginning of the fiscal year will be filed on or before March next following.

Reference is made to T. D. 2001, relative to the designation by corporations of a fiscal year other than a calendar year as a basis for making returns of annual net income.

You are informed that every corporation amenable to the income-tax law in existence at the close of a calendar year is required to file a return covering all or any part of the preceding calendar year during which it may have been in existence on or before March 1, provided such corporation has not established or does not establish a fiscal year.

In order to establish a fiscal year it is necessary for the corporation to give notice to you in writing designating the last day of some month as the close of its fiscal year. This notice must be filed not less than 30 days prior to March 1 of the year in which the fiscal-year period of 12 months *closes*. A return for that portion of the calendar year preceding the commencement of the fiscal period of 12 months is required to be filed on or before March 1 of the year next following the calendar year of which it is a part, and the return for the first full fiscal year is required to be filed on or before the last day of the 60-day period following the close of the fiscal year.

Example: A corporation desiring to establish its fiscal year as ending on June 30, 1915, must file notice not less than thirty (30) days prior to March 1, 1915, on or before January 29, 1915. A return for the period January 1 to June 30, 1914, must then be filed on or before March 1, 1915, and a return for the first fiscal year period (July 1, 1914, to June 30, 1915) must be filed on or before August 29, 1915.

That portion of the year preceding the beginning of an established fiscal year is held to be a fractional part of the calendar year, and as the return of a calendar year is not required to be filed until on or before the first day of March next following, there is no provision of law whereby the return covering a fraction of a calendar year is required to be filed earlier than "on or before" the next March 1st, though it is preferred that the return for this fraction shall be filed as early as possible after the close of the period.

The above instructions are supplemental to T. D. 2001, and rulings or decisions heretofore issued in conflict with the foregoing are hereby revoked.

(T. D. 2048—See Revision T. D. 2163.)

Taxable status of dividends paid on the capital stock from the current net earnings or established surplus created from the net earnings of corporations, joint-stock companies or associations, and insurance companies taxable upon their net income.

Dividends from the net earnings or established surplus created from the net earnings of any corporation, joint-stock company or association, and insurance company are vested in the stockholder on the date on which such dividends are declared, whether distributed or not, and regardless of the time when the surplus or undivided profits from which such dividends are declared were earned and entered on the books of the corporation as such. Dividends so declared should be accounted for in full in the returns of income of individuals for the year in which they became due and payable, whenever the amount of income is sufficient to require the inclusion of dividends, as provided in paragraph D of the income-tax law and T. D. 1945, and should be included in the gross income of corporations, etc., regardless of the amount of income.

All decisions and regulations which are in conflict herewith are hereby revoked.

(T. D. 2049.)

Emergency Revenue Law—Income-tax Certificates.

Income-tax certificates which are not required by specific statute, but by regulations only, are not subject to tax as "certificates required by law" under act of October 22, 1914.

In reply to your verbal inquiry as to whether certificates of ownership, certificates of exemption, and other certificates required by the income-tax regulations, but not by specific statute, are subject to tax as certificates required under the internal-revenue act of October 22, 1914, I beg to advise you that they are not.

While regulations made pursuant to and under authority of law as a rule have the force and effect of law, it is held by this office that it was not the intent of Congress to tax certificates which are required by regulations of the department for its own purposes and not by any express provision of law.

(T. D. 2077.)

The gain or loss resulting from the sale of capital assets and apportioned to the years subsequent to January 1, 1909, should be increased or decreased accordingly as there was gain or loss by the amount of depreciation charged off since January 1, 1909, and not used to make good such depreciation.

Article 110, page 66, of Regulations No. 33, should be, and is hereby, amended to read as follows:

ART. 110. For the purpose of determining the amount of profit or loss arising from the sale of capital assets acquired prior to January 1, 1909, which shall be taken into account by corporations in making their returns of annual net income, the gain or loss represented by the difference between the purchase price and the selling price shall be prorated according to the number of years the assets were held prior to their sale, and the amount thus apportioned or apportionable to the years subsequent to January 1, 1909, shall be included in or deducted from the gross income of the year in which the assets were sold, accordingly as they were sold for more or less than their

original cost. To any gain thus apportioned and to be included in income there should be added any amount or amounts which had been charged against and deducted from gross income during the years since the inception of the special excise tax law, on account of depreciation and which had not been paid out in making good the depreciation—that is, any amount charged off subsequent to January 1, 1909, on account of the depreciation of the assets sold and not used to make good such depreciation shall be added to the gain apportioned to these years and will be included in the income of the year in which the property was sold. Likewise, for the purpose of a deduction from gross income of the year in which the assets were sold, loss resulting from any such sale, apportionable to the years subsequent to January 1, 1909, will be reduced by the amount of the unused portion of the depreciation charged off with respect to such assets since January 1, 1909.

This ruling, in so far as it relates to depreciation, applies only to such tangible property as is subject to wear and tear, exhaustion and obsolescence, and is not to be construed as recognizing any gain or loss due to fluctuations in the market value or arbitrary changes in the book value of securities and like assets, the gain or loss with respect to which will be determined only when such assets mature or are sold or disposed of—that is, when there is a completed, a closed, transaction. (See T. D. 2005.)

(T. D. 2079.)

Income tax liability and withholding requirements in connection with quarters, heat and light, mileage, reimbursements for actual expenses, and per diem allowances in lieu of subsistence while traveling under orders, furnished or paid by the Government to officers and employees.

All decisions and regulations which are in conflict with the holdings that follow are hereby revoked.

(A) Income Tax Liability.

(1) *Quarters.*—Commutation of quarters and the money equivalent of quarters furnished in kind shall be returned as income.

When quarters are furnished in kind, of a less number of rooms than the number allowed by law, the money equivalent only of the number of rooms actually assigned shall be returned as income. When quarters are furnished in kind, of a greater number of rooms than the number allowed by law, it is to be assumed that the excess number is assigned for the convenience of the Government, and the money equivalent only of the number of rooms allowed by law shall be returned as income.

(2) *Heat and Light.*—Amounts received by, or paid for, an officer for heat and light shall be returned as income.

This includes the money equivalent, as fixed by the Government, of heat and light furnished to an officer occupying public quarters.

(3) *Mileage.*—The difference between the amount received as mileage and the amount of actual necessary expenses incurred on a journey shall be returned as income.

Mileage, as such, is not gain, profit, or income to the officer, as he is required to pay his actual expenses while traveling under mileage orders. The gain, profit, or income is the difference between the amount received as mileage and the amount properly expended by the officer while traveling, and this difference only should be returned as income.

The actual expenses to be deducted by the individual before ascertaining his gain, profit, or income on account of mileage are the expenses for which reimbursement would be made by the Government if he had traveled on an actual expense basis instead of a mileage basis.

(4) *Reimbursement for Actual Expenses.*—Amounts paid by the Government in the nature of reimbursement for subsistence and other items of actual expenses incurred while absent on business for the Government are not required to be returned as income.

(5) *Per Diem Allowances in Lieu of Subsistence While Traveling Under Orders.*—The difference between the amount received as a per diem allowance and the amount of actual necessary expenses incurred on a journey shall be returned as income.

(B) *Withholding Requirements.*

Payments in connection with (1) quarters, (2) heat and light, (3) mileage, (4) reimbursement for actual expenses, and (5) per diem allowances in lieu of subsistence while traveling under orders are indefinite and irregular as to right of possession, amount, and time of accrual, and are not, therefore, subject to withholding as "fixed or determinable annual or periodical gains, profits, and income" under the requirements of the income-tax law.

(T. D. 2090.)

Synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913.

The following synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913, on individuals, corporations, joint-stock companies, associations, and insurance companies, is published for the information of internal-revenue officers and others concerned. All rulings or parts of rulings heretofore made which are in conflict herewith are hereby revoked.

PART I.

RULINGS IN RELATION TO PERSONAL INCOME TAX.

Actors and Actresses.—If costumes purchased by actors and actresses are used exclusively in the production of a play, and are not adapted for occasional personal use and are not so used, a deduction may be claimed on account of such depreciation in their value as occurs during the year on account of wear and tear arising from their use in the productions of the play or to their becoming obsolete at the close of the production.

Administration of estates, expenses of.—Expenses of administration of an estate, such as court costs, attorneys' fees, executors' commissions, etc., are chargeable against the corpus

of the estate and are not allowable deductions in a return of a fiduciary on Form 1041.

Administrators.—See Executors and administrators.

Agent.—The word “agents” as used in paragraphs D and E of the income-tax law in connection with the words “control, receipt, custody, disposal or payment of income to another person,” does not relate to agents not acting in a fiduciary capacity. Agents not acting in a fiduciary capacity have no responsibility with reference to withholding the tax on, or making a return of, income turned over to resident aliens or citizens of the United States; but the responsible heads, agents, or representatives of nonresident aliens who are in charge of property owned, business carried on, or capital invested within the United States shall make full and complete returns of the income therefrom on Form 1040, revised, and pay the tax thereon. See Nonresident alien, agent of.

Agent, real estate.—See Real estate agent.

Agent for nonresident alien.—See Nonresident alien, agent of.

Aids' pay.—See Pay.

Alimony.—Alimony is regarded as fixed and determinable income, and in cases where it is in excess of \$3,000 the person paying such alimony is required to withhold the normal tax on the same unless exemption is claimed under paragraph C, in which case the normal tax will be withheld only on the amount paid in excess of the exemption claimed. It must be accounted for as income if, together with other income, the recipient is in receipt of a net income of \$3,000 or more. It is regarded as a personal expense to the person paying it and is, therefore, not an allowable deduction in his return.

Annuity.—The amount paid under a life insurance, endowment, or annuity contract is not income when returned to the person making the contract, either upon the maturity or surrender of the contract; but the amount by which the sum received exceeds the sum paid and coming into the hands of the person making the contract and payment is income.

When the settlement under such a contract is made in more than one payment each payment will be considered as being composed of interest and a proportionate part of the principal. Where the entire annuity is composed of an interest return upon the principal sum paid therefor, the entire annuity is income. (Amended T. D. 2152.)

Assessments on stock.—Assessments made by a corporation on its capital stock are regarded as an investment of capital and do not constitute an allowable deduction in the return of the individual.

Bad debt.—See *Debt*.

Beneficiary.—A beneficiary is liable for the normal tax upon the amount of net income derived by him from a taxable source through a fiduciary, less the amount of exemption claimed and the amount of income on which the normal tax has been withheld at source, and is also liable for the additional tax assessable on the amount of net income received by him in excess of \$20,000; and in order to determine whether the net income of a beneficiary is or is not in excess of \$20,000 and subject to the additional tax, the amount derived by him from an estate and all other taxable sources is required to be shown on his personal annual return.

Board of education, requirements of, with reference to withholding.—See *Rent*.

Bond, premium on.—Where an employee is required to furnish bond and pay the premium on such bond, as a necessary incident of his employment, the premium on the bond will constitute an allowable deduction in computing net income.

Bonds containing tax-free covenant clause.—The stipulation in bonds whereby the tax which may be assessed against them, or the income therefrom is guaranteed, is a contract wholly between the corporation and the bondholder, and in so far as the income-tax law applies, the Government will not differentiate between coupons from bonds of this character and those from bonds carrying no such guaranty. The debtor corporation or its duly authorized withholding agent

will be held responsible for the normal tax due in such cases when no exemption is claimed. When coupons are accompanied by certificates of ownership in which no exemption is claimed, the income from such coupons may be included in the return of the individual (under column A, p. 2, of Form 1040, revised) as income upon which the normal tax of 1 per cent has been paid or is to be paid at the source. (T. D. 1948.)

Bonds, interest on.—The exchange of interest coupons for funding bonds is a payment of interest on the bonds and the income tax should be imposed and paid upon such interest as income for the year in which it matures and such payment is made, and in the absence of proper claim for exemption the tax should be deducted and withheld on the amount represented by the coupons.

Book value.—Book values which reflect a shrinkage in the value of assets are not a basis for determining taxable income. (T. D. 2005.)

Certificate of merit, pay for.—See Pay.

Certificate of ownership.—Where bonds, under contract provisions in the bonds, are retired within an interest period and prior to the expiration of the full term of the bond, ownership certificates will be required and should cover that part of the interest period affected between the beginning of such period and the date of the retirement of the bonds.

Certificates.—The department will furnish blank forms of certificates to be used in connection with the collection of the income tax by such parties as may make application for the same. Private corporations and others desiring to have these certificates printed for themselves may do so if they will strictly observe the requirements of the department as to size, print, form, color, and contents.

Certificates to be used in claiming exemption from withholding on income derived from foreign sources.—See Income derived from coupons, checks, etc.

Citizenship.—An American woman who marries a foreigner takes the nationality of her husband and can not claim exemption under paragraph C.

Clubs.—All clubs are not exempt from the provisions of the income-tax law, even though not operated for profit. A club desiring to be registered as an exempt organization should file with the Commissioner of Internal Revenue a copy of its charter, or an affidavit of its principal officer, setting forth the nature of its organization, the purpose for which organized, the source, if any, from which it derives income, and the disposition made of such income as is received by it for consideration and determination as to whether or not it comes within the class of organizations held to be exempt under the provisions of paragraph G of the income-tax law.

Commission.—A commission paid to a real estate agent for collecting rents and management of property is a legitimate business expense and constitutes an allowable deduction in computing net income.

Commission on renewal premium.—See Renewal premium.

Commissions.—See Compensation.

Commissions paid salesmen.—Commissions paid to salesmen as a part of the expense of conducting business are allowable deductions to the payer of the commission. Such commissions, however, are income and should be accounted for in the return of the person receiving them. When indefinite as to amount and time of accrual, they are not subject to withholding.

Commutation of heat and light.—Amounts paid on account of commutation of heat and light are not subject to withholding. (T. D. 2079.)

Commutation of quarters.—Payments made on account of commutation of quarters are not subject to withholding. (T. D. 2079.)

Compensation.—(1) A person receiving a salary in excess of \$4,000, and, in addition, a commission of 1 per cent on all sales, the exact amount due on account of commissions not being determinable until February following the year in which the commissions were earned, at which time both his salary for the preceding year and his commissions are paid

to him, should return as income, for the year in which payment was made, the aggregate amount received on account of salary and commissions. The normal tax should be deducted and withheld therefrom when the combined payments of salary and commissions aggregate in excess of \$3,000, subject to authorized exemption claimed. The normal tax deducted from these payments should be accounted for on the withholding agent's return, Form 1042, for the year in which the deductions were made.

(2) Where an employee is paid a sum equal to two years' salary on condition that he surrender his contract of employment, such sum should be reported by him on his annual return as income, and if the sum paid exceeds \$3,000, the normal tax should be deducted and withheld therefrom, subject to authorized exemption claimed.

(3) When profits distributed by a corporation to an employee, together with payments of the employee's salary, aggregate in excess of \$3,000, the normal tax should be deducted and withheld therefrom, subject to authorized exemption claimed.

Compensation for service upon an annual, monthly, or weekly basis.—Where a service and payment period is divided by the end of a taxable year, the compensation for the period so divided at the end of the year will be accounted for in the return for the year in which payment is made and received. Where the service is of such nature as to be compensated by fee, or of such nature that no portion of the amount becomes due until the service is completed, then the total amount of the compensation should be included in the return for the year in which the compensation is received.

Compensation, value of quarters furnished, part of.—Where an individual is furnished living quarters in addition to salary, the rental value of such living quarters is regarded as compensation subject to the income tax.

Corporation notes for a period of one year or less.—See Promissory note of corporations.

Corporations, equipment trust notes of.—See Equipment trust notes.

Corporations, obligations of.—Obligations of corporations similar to bonds, mortgages, deeds of trust, etc., for income-tax purposes are held to be those obligations of corporations which, though not bonds, mortgages, or deeds of trust, are similar in form, purpose, or in being extended beyond the time of ordinary bankable commercial paper. Interest payments on ordinary bankable commercial paper of corporations payable to individuals are subject to withholding at the source only when the payment to any one individual within a taxable year exceeds \$3,000. On all other obligations of corporations, etc., payable to individuals, interest payments are subject to withholding regardless of the amount of interest payment. See Mortgage, property purchased subject to.

Corporations, principal place of business of.—The principal place of business of a corporation is the place or office in which are kept the books of account and other data from which the return is to be prepared.

Corporations, property purchased by, subject to mortgage.
—See Mortgage, property purchased subject to.

Corporations, residence of.—Corporations whose business is done wholly in Porto Rico and the Philippine Islands, even though incorporated in the United States, are held to be resident corporations of these possessions, and will make returns and pay the income tax to the collectors of internal revenue having jurisdiction there.

Costumes.—See Actors and actresses.

Debt.—A bad or worthless debt, as contemplated by the income-tax law, and which may be deducted in a return of income, is a debt which has been actually ascertained to be worthless and charged off within the taxable year.

Decedent, return of a.—See Executors and administrators.

Deductions, paragraph B.—(1) Necessary expenses actually paid in carrying on any business, not including personal, living, or family expenses.

(2) All interest paid within the year by a taxable person on indebtedness.

(3) All National, State, county, school, and municipal taxes paid within the year, not including those assessed against local benefits.

(4) Losses actually sustained during the year incurred in trade or arising from fires, storms, or shipwreck and not compensated for by insurance or otherwise.

(5) Debts due to the taxpayer actually ascertained to be worthless and charged off within the year.

(6) A reasonable allowance for the exhaustion and wear and tear of property arising out of its use or employment in the business not to exceed, in the case of mines, 5 per cent of the gross value at the mine of the output for the year for which the computation is made; but no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made; provided that no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments made to increase the value of any property or estate. (See paragraph B, sec. 2, act of October 3, 1913.)

Depreciation.—See Actors and actresses.

Dividends declared by foreign corporations transacting business wholly within the United States.—See Foreign corporations, property owned and business transacted wholly within the United States.

Drainage, irrigation, and reclamation districts, interest on bonds of.—See Special assessment districts.

Employees, foreign, of domestic corporations.—See Foreign employees of domestic corporations.

Equipment trust notes.—Equipment trust notes secured by mortgage issued by a corporation are subject to withholding. Temporary receipts issued pending preparation and issue of the notes themselves stand in the place of the notes, and where an interest period intervenes and receipts are to be presented for indorsement thereon of a payment of interest,

requisite certificates of ownership claiming or not claiming exemption should be filed.

Executors and administrators.—If the net income of a decedent from January 1 of the year in which he died to the date of his death was \$3,000 or over, a return for such decedent must be made by the executor or administrator on Form 1040, revised, and such executor or administrator may claim all deductions and exemption to which the decedent would have been entitled under the law.

Exempt organizations.—Any organization which has been held by the Commissioner of Internal Revenue to come within the class of organizations enumerated in paragraph G of the income-tax law is not required to deduct and withhold the normal tax from the amount of any salary or interest paid by it, and it is subject to no requirements of said law. However, the owner of bonds issued by such an organization is not relieved from the filing of certificates of ownership, with coupons detached from such bonds when presenting same to a bank or other collecting agency for collection or otherwise, or to the debtor corporation or its duly designated paying agent for payment; and while such an organization as the source of income is under no obligation to withhold the tax in cases where no exemption is claimed, it should, nevertheless, forward with a letter of transmittal such certificates as are received by it to the collector of internal revenue for its district on or before the 20th day of the month next succeeding that in which the said certificates were received. No special form of certificate has been issued for presentation with coupons detached from bonds of exempt organizations, but certificates in the usual form, claiming or not claiming exemption, may be used. (T. D. 1967.)

Where such organizations have an issue of registered bonds, they should, before sending out checks issued in payment of registered interest, stamp or write across the face of such check, "Corporation exempt under paragraph G from withholding;" otherwise the first bank or collecting agent would deduct and withhold the normal tax therefrom.

Exempt organizations, salaries paid by.—Salaries paid by corporations which corporations have been held to be exempt from the income tax under paragraph G of the income-tax law, are subject to the income tax and should be returned as income by the individual, but the corporation is not required to withhold the tax.

Exemption and deductions allowed in the return of a decedent.—See Executors and administrators.

Exemption, husband and wife.—See Husband and wife.

Exemption on income received from partnerships.—See Partnerships, identity of income.

Expense.—Taxes paid by a tenant to a landlord are considered as additional payment for rent and are deductible as an expense of carrying on business.

Failure to render a return, penalty for.—Every person having a net income of \$3,000 or more for the calendar year is required to render a return, and the penalty provided by law for refusal or neglect to file a return will be enforced regardless of the fact that the net income may be less than the exemption to which the individual is entitled.

Farm buildings, depreciation of.—Depreciation of farm buildings, other than a dwelling occupied by the owner, actually sustained within the year in excess of repairs made, will be considered an allowable deduction.

Fiduciary.—“Fiduciary” is a term which applies to all persons or corporations that occupy positions of peculiar confidence toward others, such as trustees, executors, or administrators; and a fiduciary, for income-tax purposes, is any person or corporation that holds in trust an estate of another person or persons.

There may be a fiduciary relationship between an agent and a principal; but the word “agent” does not denote a “fiduciary” within the meaning of the income-tax law.

Fiduciary, return of.—Fiduciaries are required to make a return on Form 1041, revised, whenever the interest of any one beneficiary in the income from the estate or trust subject to the normal tax is in excess of \$3,000. This duty can

not be delegated to another person. When the interest of any one beneficiary exceeds \$3,000 and a return is required, the name and full address of each beneficiary and the share of income to which entitled, even though it be less than \$3,000, must be shown; and in all cases where the beneficiary's interest is in excess of \$3,000 the fiduciary is required to withhold the normal tax unless exemption is claimed under paragraph C, and then only on the amount in excess of the exemption so claimed.

A fiduciary acting for a beneficiary in more than one estate or trust is required to account for each estate separately, and if the amount of income from no one estate exceeds \$3,000 no return or withholding will be required. Unless the beneficiary is under some disability which requires the fiduciary to act, the beneficiary will make his own return and account for the tax upon his entire net income.

A fiduciary acting for a minor or insane person having a net income in excess of \$3,000 will make the return for his ward on Form 1040, revised, and will not be required to file a return on Form 1041, revised, unless he has more than one ward by reason of the same estate or trust. Then, in that event, a return will be required on Form 1041, revised, and a separate return on Form 1040 for each ward having a net income of \$3,000 or more for the calendar year.

Dividends in the hands of a fiduciary and belonging to a beneficiary are not subject to the normal tax, but will be subject to the additional tax to the beneficiary whenever the beneficiary's income from all taxable sources is in excess of \$20,000. (T. D. 1943.)

Fire-insurance policy, premiums paid on.—See Insurance premium.

Foreign corporations, interest on bonds of.—See Income derived from coupons, checks, etc.

Foreign corporations, property owned and business transacted wholly within the United States.—Dividends declared and paid by a foreign corporation which derives its entire income from business done wholly within the United States

and pays, under the provisions of the Federal income-tax law, a tax upon its net income, should be treated in the same manner as dividends from domestic corporations.

Foreign employees of domestic corporations.—Salary received by a foreign employee of a domestic corporation for services rendered entirely in a foreign land is not subject to deduction and withholding of the normal tax at source.

Foreign mortgages, income from.—See Income derived from coupons, checks, etc.

Foreign service pay.—See Pay.

Gift, property acquired by.—The value of property acquired by gift is not subject to income tax, but all gains, profits, or income derived therefrom are subject to tax, and if the property so acquired is subsequently sold at a price greater than the appraised value at the time the property was acquired by gift, the gain in value is held to be income and subject to tax under the provisions of the Federal income-tax law.

Gifts.—See Voluntary offering.

Gratuity.—Where the monthly salary of an officer or employee is paid for a limited period after his death to his widow in recognition of the services rendered by her husband, no services being rendered by the widow, it is held that such payment is a gratuity and exempt from taxation under the income-tax law. Such a payment would not, however, be an allowable deduction as an expense of carrying on business in the return of the person, firm, or corporation paying same.

Guardian, return of.—See Fiduciary, return of.

Heat and light.—Amounts received by or paid for an officer for heat and light shall be returned as income.

This includes the money equivalent, as fixed by the Government, of heat and light furnished to an officer occupying public quarters. (T. D. 2079.)

Heat and light, commutation of.—See Commutation of heat and light.

Husband and wife.—Where either dies during the year having a net taxable income of \$3,000 or more a return of income should be made by the executor or administrator of the deceased as of the date of his death, and the executor or administrator may claim an exemption of \$4,000 under paragraph C. The survivor, when making a return at the end of the year for the entire year, will be allowed the applicable exemption for the single or married status existing at the close of the year.

Husband and wife, additional tax computed on separate income of.—The regulations of the department requiring the incomes of husband and wife to be combined and authorizing the aggregate exemption of \$4,000 from such combined income are applicable for the purpose of the *normal tax only*. The additional, or surtax, imposed by the act will be computed on the basis of the separate income of each individual; that is, on the amount of each individual's income in excess of the minimum amounts upon which the surtax at the graduated rates is to be calculated.

Income derived from coupons, checks, or bills of exchange on foreign bonds, mortgages, dividends, etc.—Amounts received by citizens or residents of the United States for or in payment of interest upon bonds issued in foreign countries, and upon foreign mortgages or like obligations, and for any dividends upon stock or interest upon obligations of foreign corporations, associations, or insurance companies engaged in business in foreign countries, are subject to the income tax. (Art. 54, Regulations No. 33.)

The licensed person, firm, or corporation first receiving such foreign item for collection or otherwise shall withhold therefrom the normal tax of 1 per cent and will be held responsible therefor unless exemption is claimed.

If the foreign item is in the form of a check or bill of exchange, the words "Income tax withheld by _____" (giving name, address, and date), or the words, "Income-tax exemption claimed through _____" (giving name and address of licensee), as the case may be, shall be indorsed or stamped

thereon by such licensee; but if the item is represented by a coupon or coupons from bonds, the licensee shall attach thereto a statement identifying the same, and the indorsement or stamp showing the tax withheld or exemption claimed shall be placed on the statement instead of the coupon or coupons.

Such indorsement or stamp shall be sufficient evidence of tax withheld or exemption claimed to relieve subsequent holders or purchasers from the obligations of withholding. (T. D. 2023, Arts. 60-61, Regulations 33.)

Claims for exemption from withholding on income other than from interest on bonds may be made by individuals on Form 1007; by firms, organizations, or fiduciaries on Form 1063; claims for exemption from withholding on interest from bonds may be made by individuals on Form 1000B; by firms and organizations on Form 1001; and by fiduciaries on Form 1015. (T. D. 1998.)

Insurance premium.—Premiums paid for insurance on property which is not occupied by the owner as a dwelling, but is rented or leased to secure an income, constitute allowable deductions in computing net income.

Premiums paid on life insurance by the insured do not constitute allowable deductions under the income-tax law.

Premiums paid on life insurance taken out by a partnership upon the lives of individual members of such partnership constitute allowable deductions in ascertaining the net earnings of the partnership. However, when such policies mature, or upon the death of the insured partner, the amount received as life insurance should be included in the gross income of the partnership.

Investment certificates.—Investment securities issued by a corporation for a term of years are corporate obligations within the meaning of the income-tax law.

Judges, salary of.—The salary of judges of the Supreme and inferior courts of the United States appointed subsequent to October 3, 1913, and of judges who have been retired, is subject to the income tax and to the withholding provisions of the income-tax law.

Landlord.—A landlord in receipt of annual rental from a tenant in excess of \$3,000 may, at the time the amount of rental payments aggregates \$3,000, file with the tenant a claim for exemption under paragraph C of the income-tax law (Form 1007, revised). He may, also, after December 31 of the taxable year, file with the tenant, or with the collector of internal revenue, a claim for deductions under paragraph B on Form 1008, revised.

For duties of tenant with reference to withholding, see Tenant. (T. D. 1965.)

Legacy.—The general policy of the law and rule of interpretation require that legacies in all cases, unless clearly inconsistent with the intention of the testator, should be held to be vested rather than contingent. Where there is a vested interest the income from such interest, whether distributed or not, is subject to the tax; and when in the hands of fiduciaries they are required to account for and pay the tax thereon.

Life insurance policy, premiums paid on.—See Insurance premium.

Living quarters furnished.—See Compensation, value of quarters furnished part of.

Local benefits, taxes assessed against.—Taxes paid pursuant to assessments levied by special districts, such as irrigation, reclamation, drainage districts, etc., for sidewalks in cities, street extension, grading, paving, etc., are held to be "taxes assessed against local benefits." Such taxes are not allowable deductions in a return of annual net income.

Losses in trade.—"Only those losses are deductible which are sustained during the tax year 'in trade.' Loss to be deductible must be an absolute loss, not a speculative or fluctuating valuation of continuing investment, but must be an actual loss, actually sustained and ascertained, during the tax year for which the deduction is sought to be made; it must be incurred in trade and be determined and ascertained upon an actual, a completed, a closed transaction."

The term "in trade," as used in the law and in T. D. 2005, is held to mean the trade or trades in which the per-

son making the return is engaged; that is, in which he has invested money otherwise than for the purpose of being employed in isolated transactions and to which he devotes at least a part of his time and attention. A person may engage in more than one trade and may deduct losses incurred in all of them, provided that in each trade the above requirements are met. As to losses on stocks, grain, cotton, etc., if these are incurred by a person engaged in trade to which the buying or selling of stocks, etc., are incident as a part of the business, as by a member of a stock, grain, or cotton exchange, such losses may be deducted. A person can be engaged in more than one business, but it must be clearly shown in such cases that he is actually a dealer, or trader, or manufacturer, or whatever the occupation may be, and is actually engaged in one or more lines of recognized businesses before losses can be claimed with respect to either or more than one line of business, and his status as such dealer must be clearly established. (T. D. 2005.)

Mileage.—The difference between the amount received as mileage and the amount of actual necessary expenses incurred on a journey shall be returned as income. Payments on account of mileage are not subject to withholding. (T. D. 2079.)

Minor child, return of.—See *Guardian, natural*.

Mortgage, property purchased subject to.—An individual issues coupon bonds secured by a mortgage upon real estate. Subsequently a corporation purchases the real estate and assumes (as between the mortgagor and itself) the payment of bonds and coupons. Held, that the situation is not changed by the purchase by the corporation. The corporation purchased only the mortgagor's equity of redemption (and the mortgagor's possession); the property is the security, and the character of the bond obligation remains unchanged and as created, even though the corporation is to pay all interest and will ultimately pay off the mortgage. There will be no withholding by the corporation (it being placed in the stead of the mortgagor) until the interest payment to any one person in any year exceeds \$3,000. (See *public utility*.)

Municipality, obligation of.—See Public utility, and Mortgage, property purchased subject to.

Naval Officers.—See Oaths.

Nonresident alien, agent of.—The responsible heads, agents, or representatives of nonresident aliens who are in charge of the property owned or business carried on within the United States by nonresident aliens shall make full and complete returns of the income therefrom on Form 1040, revised, and shall pay any and all tax, normal and additional, assessed upon the said income of such nonresident aliens. (T. D. 2013.)

Notary public.—See Oaths.

Oaths.—(1) A return of income rendered by an individual residing abroad may be acknowledged before any duly appointed officer of the country in which he resides authorized to administer oaths and use an official seal.

(2) If a return is executed in a State before a notary who is not required by the laws of the State to use a seal, and none is used, the notary should file with the Commissioner of Internal Revenue the certificate of an officer possessing a seal, showing that he is duly commissioned and authorized to administer oaths; otherwise the certificate will not be recognized.

(3) Returns acknowledged before commanding officers of naval vessels while at sea or in foreign ports will be accepted.

(4) Returns executed before a summary court officer, United States Army, will not be accepted.

Ownership certificates.—Ownership certificates should be filed with coupons of exempt organizations when presented for collection. (See Exempt organizations.)

Partnership—Identity of income.—The character of partnership profits divisible between persons has no reference to any character which, as income accruing to the partnership, it may have borne prior to receipt by the partnership. It is therefore held that income received from a partnership can not be traced to its source behind the partnership for the purpose of claiming individual exemption.

Income, when accrued.—It is held that the income from a partnership accrues to the individual partner at the time his distributive interest is determined and reducible to possession. In the returns of income made by individuals for the calendar year, therefore, there should be included such income accruing from the business of partnerships for their business years as may have been definitely ascertained by means of a book balance, whether distributed or not. In other words, members of partnerships are required to make returns of income like other individuals for the calendar year, and should include in their returns the net proceeds of their interest in partnership profits ascertained at the end of the business year falling within the calendar year for which the individual return is being rendered.

Pay.—Congress has clearly specified the conditions under which officers and enlisted men are entitled to foreign service pay, aids' pay, and pay for certificate of merit, and such items of income are considered as fixed and determinable and subject to the withholding provisions of the income-tax law.

Penalty for failure to render a return.—See Failure to render a return, penalty for.

Pension, foreign.—License not required for collection of foreign pensions paid to resident aliens or citizens of the United States.

Pensions.—Pensions paid by the United States Government are subject to the income tax.

Per diem allowances in lieu of subsistence while traveling under orders.—The difference between the amount received as a per diem allowance and the amount of actual necessary expenses incurred on a journey shall be returned as income and is not subject to withholding. (T. D. 2079.)

Power of attorney, fiduciary relation can not be created by.—A person can not, by a power of attorney, delegate to another a duty which he himself could not perform, and inasmuch as an individual can not relieve a withholding agent from the withholding requirements of the income-tax law by filing Form 1015, a person holding a power of attorney from another is without authority to file this certificate as a fidu-

ciary. However, for income-tax purposes he is authorized to file any certificate which his principal, as such, would be entitled to file.

Premium on bond.—See Bond, premium on.

Principal place of business of corporations.—See Corporations, principal place of business of.

Profit from sale of real estate.—Profit is the difference between the selling price and the cost where the selling price is more than the cost.

"Cost of property purchased prior to the incidence of the special excise tax (Jan. 1, 1909), or the incidence of the income tax (Mar. 1, 1913), will be the actual price paid for the property, including the expense incident to the procurement of the property in the first instance and its sale thereafter, together with carrying charges of interest actually paid, insurance, and taxes actually paid prior to the incidence (special assessments, if any, 'actually paid' as 'local benefits' in connection with real estate); provided that where, up to the incidence of the tax, the expense of carrying property has exceeded the income from it, the difference between the expense of carrying and the income from the property shall be added to the purchase price, and the sum thus ascertained shall be the cost of the property; and provided further, that in the case of property purchased prior to the incidence of the tax and sale thereof subsequent to the incidence of the tax, there shall be excluded from consideration in ascertaining cost of any items of income, expense, interest, and taxes previously taken into account in preparing a return of annual net income.

"The cost of property acquired subsequent to the incidence of the tax will be the actual price paid for it, together with the expense incident to the procurement of the property in the first instance, and its sale thereafter, and the cost of improvement or betterment, if any."

The entire profits realized by individuals or corporations from the sale of real estate will be taxable except where the property in connection with which the profit is obtained was acquired prior to March 1, 1913, in the case of individuals,

or prior to January 1, 1909, in the case of corporations; and then and in such event the profit will be prorated over the whole time the property was held, and that part of the whole profit apportioned to the taxable period will be reported in annual returns of income. In prorating, fractional parts of years will not be considered.

For income-tax purposes, where there is an actual sale and transfer, profit will be considered as realized even though payment is to be made in installments, as notes for deferred payments are secured by the title to the property and presumably bear interest and are held to be worth, in cash, their face value.

In case of default on installment payments there may be charged off as bad debts the amount of such unpaid installments less the salvage value of the real estate repossessed. (T. D. 2005.)

Profit sharing.—See Compensation.

Promissory note of corporations.—A simple promissory note not exceeding one year in time is not "similar to bonds, mortgages, or deeds of trust of corporations," and the interest on such a note is not subject to withholding except when the amount of interest thereon payable to an individual in any one year is in excess of \$3,000, or when the interest thereon is payable to a nonresident alien, in which latter case the tax should be withheld regardless of the amount of interest payment.

Public utility.—Where a municipality purchases a public utility subject to a mortgage, the mortgage retains its original character, even though the municipality assumes the mortgage indebtedness and pays the interest thereon. Therefore, the indebtedness secured by such mortgage is not an obligation of the municipality within the meaning of paragraph B of the income-tax law. (See Mortgage, property purchased subject to.)

Quarters.—Commutation of quarters and the money equivalent of quarters furnished in kind shall be returned as income.

When quarters are furnished in kind of a less number of rooms than the number allowed by law, the money equivalent only of the number of rooms actually assigned shall be returned as income. When quarters are furnished in kind of a greater number of rooms than the number allowed by law, it is to be assumed that the excess number is assigned for the convenience of the Government, and the money equivalent only of the number of rooms allowed by law shall be returned as income. (T. D. 2079.)

Quarters, commutation of.—See Commutation of quarters.

Real estate agents.—Real estate agents are not required to deduct and withhold the normal tax from rents collected, even though the amount is in excess of \$3,000. The agent stands in the place of the landlord and receives money from tenants in exactly the same capacity as the landlord would receive such moneys and should be treated as such. A real estate agent does not act as an agent of the debtor. Therefore the duty of withholding the tax can not be transferred from the debtor to such agent, because such transfer would simply be transferring the duty of withholding to the landlord himself.

Real estate, profit from sale of.—See Profit from sale of real estate.

Reimbursement for actual expenses.—Amounts paid by the Government in the nature of reimbursement for subsistence and other items of actual expense incurred while absent on business for the Government are not required to be returned as income. (T. D. 2079.)

Renewal premium.—Commissions on renewal premiums for insurance are income when received and income for the period in which received.

Rent.—Where a tenant rents two pieces of property from the same owner, the tenant should combine the payments, and when such payments so combined aggregate in excess of \$3,000 the normal tax should be deducted and withheld, subject to authorized exemptions claimed.

Where a board of education for a school district rents property at an annual rental exceeding \$3,000, such board of ed-

ucation is regarded as a tenant and should withhold the normal tax, subject, however, to the exemption claimed.

A lessee paying rent in excess of \$3,000 a year under a lease from two or more individuals must make deduction from all payments to individuals in excess of \$3,000 unless certificates of exemption are filed. He should ascertain in what proportion the rent is divided by the use of office Form 1000B, which may be adapted and executed by one of the parties in interest, the others executing Form 1007. The withholding should be made from the income of individuals and not from the aggregate amount paid. This situation is not different if the lessors are husband and wife if their individual interests are separate. The situation is not changed if, by instruction, the actual payments of rent are made to one lessor, the payments to be distributed by him. Where notes are given in payment of rent, the lessee's obligation to withhold is not altered. The lessee's obligation is the same as in the case of cash rental, withholding occurring at the time the notes are given, and not at maturity. When rental payments in excess of \$3,000 a year are payable to a fiduciary, who fails or refuses to file Form 1063, agreeing to act as the source, the beneficiaries are not entitled to file exemption certificates directly, the lease having been taken from the fiduciary. If the fiduciary's certificate is not filed, the lessee should withhold 1 per cent on the entire amount. The lessee is not presumed to have knowledge of the beneficiaries unless they are parties to the lease.

Rent.—See Living quarters.

Return of fiduciary or guardian.—See Fiduciary, return of.

Returns, execution of.—See Oaths.

Salaries, withholding on, based on calendar year.—The salary of an individual is subject to withholding at the source only on the basis of the calendar year. Corporations which have a fiscal year other than the calendar year and pay employees salaries of \$3,000 or over per annum will be required to withhold on the basis of the calendar year.

Salary of judges.—See Judges, salary of.

Salary paid in advance.—See Compensation.

Salary paid to widow for a limited time after death of employee.—See Gratuity.

Scrip.—Scrip certificates issued by a corporation to its stockholders in lieu of dividends, such scrip certificates bearing interest payable semiannually and redeemable at a specified time not longer than one year from date of issue, are not corporate obligations similar to bonds, mortgages, or deeds of trust, and the interest payable thereon will not be subject to withholding except when the amount thereof payable to an individual in a calendar year exceeds \$3,000. Payment in scrip is held to be equivalent to payment in cash, and when the amount of such scrip payment to any one individual in a calendar year is in excess of \$3,000 the tax must be withheld and accounted for in excess of exemption claimed.

Special assessment districts.—Special assessment districts created under the laws of the several States for public purposes, such as the improvement of streets and public highways, the provision for sewerage, gas, and light, and the reclamation, drainage, or irrigation of bodies of land, and levee and school districts, are held to be political subdivisions of a State, and income derived from interest upon the obligations of such districts shall not be included in computing net income. (T. D. 1946.)

Taxes paid pursuant to assessments levied by such special assessment districts are held to be "taxes against local benefits," and are, therefore, not allowable deductions in computing net income.

Stock dividends.—Stock dividends when required to be included in a return of income should be accounted for at the valuation placed upon the stock by the corporation when said stock dividends were issued.

Summary court officers.—See Oaths.

Taxes.—Taxes paid by citizens or resident aliens of the United States to a foreign country are not allowable deductions in computing net income. The provision of law for

the deduction of taxes applies only to taxes paid to the United States, or to some State or political subdivision thereof in the United States.

Taxes, special.—See Special assessment districts.

Tax-free covenant clause.—See Bonds containing tax-free covenant clause.

Tenant.—See Rent.

Theatrical profession.—See Actors and actresses.

Voluntary offering.—Easter offerings, and fees received by clergymen for funerals, masses, marriages, baptisms, etc., are considered income subject to tax under the provisions of the income-tax law of October 3, 1913. Christmas gifts, however, are not considered income within the meaning of the law and should not be included in a return.

Withholding from rents.—See Rent.

Worthless debt.—See Debt.

PART II.

RULINGS IN RELATION TO CORPORATION INCOME TAX.

Agricultural and Horticultural Associations.

Agricultural and horticultural associations specifically enumerated as exempt are held to be such associations as county fairs, or like organizations, not themselves engaged in agricultural or horticultural pursuits, but which, by means of awards, premiums, etc., are intended to encourage better production and no part of whose income inures to the benefit of any private stockholder or individual.

Corporations engaged in agricultural or horticultural pursuits for profit are liable under the law to make returns and to pay the income tax thereby shown to be due.

Agricultural organizations.—Corporations owning sugar or other plantations and disposing of the products thereof are held to be operating for profit and are not entitled to exemption as agricultural organizations.

Bank guaranty fund.—The reserve required to be set aside by banks in various States and kept and maintained in said

banks as a guaranty of depositors in the banks of said States—which said guaranty fund is subject to draft by said banking commissions or boards, in amounts to be determined by said State banking commissions or boards, only for the purpose of supplying deficiencies in estates of failed or insolvent banks—is not an expenditure and can not be considered either as a tax or an expense. It is a reserve required to be kept and maintained for a certain and specifically designated purpose. The amounts actually expended from such fund in paying therefrom drafts of the State banking commissions or boards on said fund are in the nature of insurance cost, and as such may be deducted as a business expense. The reserve, *per se*, is not deductible in a return of income. (See page 296.)

Capital of a corporation.—The amount received by a corporation for the original issue and sale of its capital stock is held to be the capital of the corporation. In cases where the stock, as originally issued, is sold at a price greater or less than the par value, neither the premium nor the discount will be taken into account in determining the net income of the corporation for the year in which the stock is sold. This is purely a capital transaction and the income is neither increased nor decreased by reason of the sale, *per se*, of the stock at a price greater or less than its par value.

Collateral the subject of sale in ordinary course of business of a corporation (expense of business).—As used in the act, the expression “collateral the subject of sale,” etc., refers to physical or tangible property bound for the performance of certain covenants or payment of certain obligations, and which physical or tangible property is the “subject of sale in the ordinary business of a corporation” owning the same. Where such corporation is, as a matter of its ordinary business, engaged in buying and selling, or dealing in such property, the interest actually paid within the year on indebtedness wholly secured by such collateral may be allowably deducted from gross income as an expense of doing business, without regard to the limit of deductible interest as otherwise provided by the statute. The corporation, etc., must be or-

ganized and operated for the purpose of buying, selling, and dealing in the particular kind of property which becomes the collateral in question, and the particular property pledged for the debt upon which the interest is paid must be the "subject of sale in the ordinary business of the corporation." Real estate mortgaged, and the property of corporations organized for and engaged in the business of buying, selling, and dealing in real estate, warehouse receipts representing property the subject of sale in the ordinary business of the corporation owning the same, and which warehouse receipts are pledged as collateral for such corporation's own debt, are examples where the interest paid will be deductible as a "business expense" and not be subject to the statutory limitation as to interest deduction. (See T. D. 1993.)

Corporation—Exempt.—Coöoperative dairies are not. (T. D. 1996.)

Corporations in existence but part of year.—All corporations having an existence as such during all or any portion of a year, unless coming within the classes specifically enumerated as exempt, are required to make returns. Dissolved corporations whose fiscal year coincides with the calendar year will make returns covering the period from January 1 to the date of dissolution, and corporations having a fiscal year other than the calendar year will make returns covering the period from the beginning of the fiscal year to the date of dissolution; and new corporations will make return for the period from the date of their organization to December 31. The net income in all such cases will be ascertained in the manner set forth in paragraph G of the act.

Donations.—Donations by corporations which legitimately represent a consideration for a benefit flowing directly or indirectly to the corporation as an incident of its business are allowable deductions from gross income in ascertaining net income subject to the income tax, as donations to a hospital upon consideration that employees of the corporation are to have a ward for their use in case of accident or illness. The absence of consideration moving in some form to the corpora-

tion will make a contribution a mere gratuity. Gratuities are not allowable deductions in a return of income by corporations.

Donations made for purposes connected with the operation of the property, when limited to charitable institutions, hospitals, or educational institutions conducted for the benefit of the employees of a corporation or their dependents, shall be proper as a deduction under the head of expense in the return of the corporation.

Earnings or dividends not deductible.—Every corporation, no matter how closely related it may be to any other corporation, is required to make return of annual net income and to pay any income tax thereby shown to be due.

Parent, holding, or other corporations must include in their gross income, and can not deduct therefrom, any dividends or share of earnings which they may receive from a subsidiary, related, or any other corporation. The fact that the parent or holding company owns all the stock of the subsidiary company is immaterial and will not warrant such parent company in omitting or deducting dividends from gross income.

The Federal income-tax law fixes a specific rule by which the net income, for the purposes of the tax, is to be computed. That rule makes no provision for the exclusion or deduction from the taxable income of dividends received.

Expense (spending or treating money).—So-called spending or treating money actually advanced by corporations to their traveling salesmen as a part of selling expense of the product of such corporation is an allowable deduction in a return of income by such corporation. There must be some showing that all the allowance claimed as a deduction was actually expended for the purpose for which the allowance was made, namely, the selling of the product of the corporation in question.

Fiscal year (corporation).—*The financial year of a corporation, etc., at the end of which the accounts are balanced.*—For income-tax purposes, in the absence of designation otherwise, all returns are required to be made on the basis of the calendar year. The privilege of making a return of income

on the basis of a fiscal year other than the calendar year is limited to corporations or institutions which make returns and pay tax as corporations. The statute provides that returns must be made on the basis of a calendar year unless the corporation, etc., involved shall designate a fiscal year other than the calendar year in the manner provided by the statute. When the calendar year shall have passed, a return of income for the entire period of such calendar year is then due and must be made out and filed with the proper collector of internal revenue on or before March 1 then next following. This is true even of corporations and institutions making return as corporations, except that such corporations, etc., are given the privilege of filing with the collector of internal revenue (with whom their return must be filed) not less than 30 days (more, but not less) prior to March 1 (the date when the return on the basis of a calendar year is to be filed), a notice, in writing, setting forth that such corporation, etc., has designated the last day of some month in the year (other than the last day of December) as the day of the closing of its fiscal year, and that from the date so designated as the close of its fiscal year its books have been or will be kept on the basis of such designated fiscal year. When this said notice is filed with the collector of internal revenue, a return must then be made on or before March 1 for such part of the calendar year elapsed as is not included in the said designated fiscal year, and return for the full designated fiscal year must be made and filed within 60 days next succeeding the last day of said designated fiscal year. This rule will apply whether the designation affects the future or past, provided always that the return of income can not cover more than 12 consecutive months.

Example:

1914							
A	X	B	C	Y	Z		
Jan. 1	June 30	Dec. 31	Mar. 1	June 30	Aug. 29		

AB is calendar year and C is March 1, the time when return on the basis of the calendar year must be filed. At any

time not less than 30 days prior to C a corporation may file with the collector with whom its return of income must be filed a notice in writing setting forth that said corporation, etc., has designated the last day of some month in the year (other than December 31) as the day of the close of its fiscal year, as June 30, represented by X; thereafter, on March 1, a return will be filed for the period AX. XY represents the first designated fiscal year, and for this said fiscal year a return of income must be made (covering the period XY) subsequent to June 30 and on or before August 29; in other words, the 60-day period next following the close of the fiscal year. Thereafter returns of income will be made and filed annually subsequent to June 30, and on or before August 29. (See T. D. 2001 and 2029.)

Gifts to corporation—Income.—The value or amount of a gift to a corporation is held to be income to such corporation and should be returned as such for the year in which the gift is received. The provision of the act of October 3, 1913, which exempts gifts, bequests, etc., from the tax imposed by the act applies to individuals and not to corporations.

Horticultural societies.—Fruit-growers' associations whose purpose is to promote the mutual benefit of their members in marketing their products and which are not organized for profit and have no capital stock represented by shares, and whose income is derived wholly from membership fees, dues, and assessments to meet necessary expenses, are horticultural societies within the meaning of the law and are not subject to tax or required to make returns.

Interest.—Individuals are permitted a deduction of "all interest paid within the year * * * on indebtedness"; corporations are permitted a deduction of interest paid within the year on an amount measured by "the amount of capital stock, or capital employed, plus one-half the interest-bearing debt," both outstanding at the close of the year.

A foreign corporation in determining the maximum principal upon which interest for the purpose of a deduction may be computed will add to the amount of its paid-up capital stock, or if no capital stock, then the amount of capital em-

ployed in business, one-half the interest-bearing indebtedness, both outstanding at the close of the year. Such proportion of this sum as the gross income derived from business transacted in this country bears to the gross income received from business done or capital invested, both within and without the United States, will constitute the maximum principal upon which interest for the purpose of a deduction from the income in the United States may be computed. For instance, if the gross income in the United States is one-fourth of the entire gross income, then one-fourth of the sum of the paid-up capital stock plus one-half the interest-bearing indebtedness will be the maximum principal upon which interest deductible from the United States income may be computed.

Life insurance in favor of corporations.—In cases wherein corporations pay premiums on insurance policies insuring, in favor of the corporations, the lives of officers or others, such premiums may be allowably deducted from the gross income of the corporations paying the same.

In all such cases the proceeds of the policies when paid at maturity or upon death of the insured shall be returned by the corporation as income for the year in which such proceeds were received.

Paid-up capital stock outstanding at close of year.—“Paid-up capital stock outstanding at the close of the year,” when used in connection with “interest-bearing indebtedness,” to determine the maximum principal upon which interest for the purpose of an authorized deduction is to be computed, means the par value of shares issued as reported in Item 1 of the return form, and will not include the surplus carried by the corporation. (See T. D. 1960 for method of computation and T. D. 1993 for regulation as to deduction of interest paid on indebtedness wholly secured by collateral, the subject of sale, in the ordinary course of business.)

Pensions paid employees, etc.—Amounts paid for pensions to retired employees or to their families or others dependent upon them, or on account of injuries received by employees, are proper deductions as ordinary and necessary expenses. Gifts or gratuities to employees in the service of a corpora-

tion are not properly deductible in ascertaining net income of the corporation.

Philippine and Porto Rican corporations.—Such corporations organized under laws of the United States or any State thereof, resident in the United States but doing business in these possessions, are taxable in the United States. If they are organized under the laws of the United States or local laws of these possessions and resident in said possessions, they are required to pay their tax in the Philippines or in Porto Rico, as the case may be. The law provides that corporations shall make their returns "to the collector of internal revenue for the district in which they have their principal place of business." Held, "principal place of business" of a corporation is the place or office in which are kept the books of account and other data from which the return is to be prepared.

Public utility (business expense).—In case of a public utility constructed, operated, or maintained under contract with any city, Territory, or the District of Columbia, or a city where a portion of the net earnings of such public utility is payable under such contract to the State, Territory, etc., the amount so paid may be deducted by the public utility operated under such contract as an "expense of business." (See Art. 93, Reg. 33.)

Rent.—Payments measured by a fixed percentage on the stock of a railroad corporation whose lines are leased by another railroad corporation and which rent is payable by the lessee directly to the stockholders of the lessor corporation, have, under the income-tax law with respect to the corporation paying such sums, the status of a rental payment.

In such cases there are two corporations involved, the lessor and the lessee—one the rent payer and the other the rent receiver. To the lessee rental payments are an expense of operation; to the lessor the rentals are an income.

A contract which provides that the rentals shall be paid to a third party, not a party to the contract, does not change the character of the payment, nor relieve the lessor from liability to tax on the rental income which the lessee pays to it

or to such third party. The income of the third party, the stockholder, is dividends on the stock which he holds in the lessor company. Dividends can not be paid unless the lessor has an income out of which to pay them. Hence the lessor company is required under the law to return as income the rentals which the lessee is required to pay. In paying direct to the stockholders the lessee is acting as the agent of the lessor, and the amounts received by stockholders are, in effect and in fact, dividends received out of the earnings of the lessor.

Return (corporation).—A corporation organized and transacting no business within the calendar year of its organization must, nevertheless, make and file a return on the basis of the calendar year unless such corporation shall designate a fiscal year other than the calendar year in the manner and form as provided for that purpose. The duty to make a return depends upon corporate or associational existence and not upon the receipt of income.

Return period.—The return for a completed period must be made independently of any other period. A corporation changing from the basis of a calendar year to a fiscal year, and because of said change having a part of the calendar year for which return is to be made, will be required to make a separate return for the fraction of the calendar year, and another separate return for the entire fiscal year; as June 30 being designated as the end of the fiscal year, the part of the calendar year from January 1 to June 30 must be covered in a return to be made on or before March 1 then following, and on or before 60 days next following June 30 (next after the filing of return for the fractional part of a calendar year) a return must be made and filed for the entire fiscal year of the corporation. (T. D. 2029.)

(T. D. 2109—See page 216.)

(T. D. 2130.)

Corporation Income Tax.

(See correction T. D. 2161, page 2.)

T. D. 2005 not applicable to returns made for 1909 to 1912, inclusive, if values of securities were treated in returns for that period in accordance with regulations then in force, in which case no reopening or readjustment of securities account will be required.

Reference is made to T. D. 2005, which holds, in effect, that neither increase nor shrinkage in the book value of securities due to market fluctuations or otherwise is to be taken into account in making returns of annual net income as required by section 2, act of October 3, 1913.

Numerous inquiries have been made as to whether or not the terms of this Treasury decision are applicable to returns made under the special excise tax law. (Sec. 38, act of Aug. 5, 1909.)

Relative to this, it is held that if returns made for the years 1909 to 1913, inclusive, were made strictly in accord with the regulations then in force—that is, if the increase in the book values of securities was returned as income and the shrinkage was deducted from gross income, as the regulations then required and permitted—no readjustment of the income in so far as it is affected by the adjusted values of securities need now be made. The return as to this item will be accepted as correct and final where the adjustment was made in the ordinary course of business and without reference to the special excise tax on corporations.

In all such cases wherein the book values of the securities were taken into account in making returns for the years 1909 to 1912, inclusive, if such securities have been, or shall be hereafter, sold or otherwise disposed of, the gain or loss resulting from such sale or disposal will be determined upon the basis of the difference between the last adjusted value

subsequent to January 1, 1909, taken into account in making the return and the amount realized for the securities when disposed of, and in this event no prorating will be required or permitted.

If for the purpose of the special excise tax no adjustment of the value of securities acquired prior to January 1, 1909, had been made or taken into either side of the account in the return of annual net income subsequent to January 1, 1909, the gain or loss will be determined in accordance with the rule set out in T. D. 2005; that is, the gain or loss will be determined on the basis of the difference between the actual cost and selling price and prorated according to the number of years the securities were held.

Therefore, if, in the examination of the books of corporations, examining officers find that the securities account was treated in the returns for the years 1909 to 1912, inclusive, in accordance with the regulations then in force, no reopening or readjustment of this account will be required. In such case, as to this item, the returns will be considered final and correct, the gain or loss resulting from the disposal thereafter of such securities to be determined in accordance with the instructions hereinbefore given.

(T. D. 2131.)

Use of Form 1008, revised, for claiming refundment of normal tax withheld in excess of total tax liability.

There follows a synopsis of the requirements in the use of Form 1008, revised, and the relation between that form and Form 1040, revised.

1. A person who has had income tax withheld from his income during the year 1914 in excess of his total liability for the normal tax should file Form 1008, revised, with either the withholding agent or the collector of internal revenue with whom the withholding agent's return is required to be filed, as he may elect. The withholding agent is required by T. D.

1965 to retain the amount of tax withheld by him until 30 days prior to March 1, 1915, in order to refund amounts withheld in excess of the taxpayer's liability for the normal tax should a proper claim be filed for deductions and exemptions. He is required by law to file his return on or before March 1, 1915, and may, in his discretion, file his return on any date between January 1 and March 1. If he has filed his return with the collector, Form 1008, revised, should also be filed with the collector, who will notify the withholding agent and authorize him to make a refundment, changing the entry on the return and filing therewith Form 1008, revised, as a voucher for the refundment. If, however, the withholding agent has not filed his return, and a claim on Form 1008, revised, is filed with him, he will make the proper refundment on his own responsibility, filing Form 1008, revised, as a voucher therefor. If Form 1008, revised, is filed with the collector under these circumstances, he will authorize the withholding agent to make refundment. The withholding agent is not required by law to forward to the collector the tax withheld by him until he has received notice of assessment, and then, like the tax assessed in other cases, payment should be made by him on or before June 30 of each year.

2. Where there are two or more withholding agents whose collection districts are the same, Form 1008, revised, should be filed with the collector of that district, and a statement setting forth the names of the withholding agents and the amounts withheld by each should be attached to the form. The collector will then notify the withholding agents of the exact amount that may be refunded by each.

3. Where excess deductions have been made by two or more withholding agents in different collection districts, Form 1008, revised, may be filed with either collector, as the individual may elect; and there should be attached to the form a complete statement setting forth the names of all withholding agents, the amounts withheld by each, and the exact amount claimed as a refundment from each. The collector with whom the statement is filed will accept it as a part of Form 1008, revised, and as subject to the penalties

imposed by law, and will notify the withholding agents, whether in his district or other districts, to make the refundment claimed from each.

4. It is to be noted that this ruling provides for the execution by the taxpayer of only one Form 1008, revised, covering all the general deductions and exemptions claimed by him for the tax year.

5. The adjustment of total tax liability by the use of Form 1008, revised, does not, necessarily, mean that a return on Form 1040, revised, is not required under the law.

A return of annual net income on Form 1040, revised, is required in all cases of individual incomes subject to the tax, except where the individual's tax liability is required by law to be satisfied at the source.

In other words, when an individual is liable for the normal tax, only, and his entire net income is subject to withholding, no return on Form 1040, revised, is required to be filed. If, however, his net income includes any item that is not subject to withholding, a return on Form 1040, revised, is required to be filed, although no further tax may be due, and whether or not Form 1008, revised, has been filed.

(T. D. 2135.)

Synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913.

The following synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913, on individuals, corporations, joint-stock companies, associations, and insurance companies is published for the information of internal-revenue officers and others concerned. All rulings or parts of rulings heretofore made which are in conflict herewith are hereby revoked.

Accident insurance.—Money paid to the person insured by an accident insurance policy on account of accidents sustained is returnable as gross income by the insured person.

The proceeds of accident insurance policies paid upon the death of the person insured to the beneficiaries is to be treated like the proceeds of life insurance policies.

Administration of estates, expenses of.—Referring to the difference between the expenses of administration of estates, set forth as not allowable deductions in T. D. 2090, and the expenses itemized as allowable deductions on Form 1041, revised, the distinction is sought to be made between such first expenses as are properly chargeable against an estate as an entity, and such other expenses incident to administration as may arise from the nature of the properties and the details of business management.

Among the former, T. D. 2090 cites court costs, attorneys' fees, executors' commissions, etc., and among the latter may be cited the usual and necessary expenses of carrying on a business, including salaries, wages, and rentals paid, and such repairs to business properties as do not constitute permanent improvements or betterments which increase the value of the property or estate. The former is meant to apply to expenses that reduce the estate in the administrator's hands, and the latter to legitimate expenses that reduce the income accruing to beneficiaries, but not the estate itself.

Agent.—An agent having entire charge of property with authority to effect and execute leases with tenants entirely on his own responsibility, and without consulting his principal, paying taxes and expenses and all other charges in connection with the property out of funds in his hands from collection of rents, merely turning over the net proceeds from the property periodically to his principal by virtue of authority conferred upon him by a power of attorney, is not a fiduciary within the meaning of the income tax law.

Agent for a nonresident alien.—An agent, whether an individual or a corporation, for a nonresident alien stands in the place of the principal and should execute Form 1040, revised, for the principal when the principal is liable for the tax on income passing through the agent's hands. As a nonresident alien is not subject to the tax on income derived from stocks and bonds of domestic corporations, no return is required to

be made by an agent in such a case. (*See Aliens, nonresident, income from mortgages accruing to.*)

Agents, withholding, responsibility of, for refundment when Form 1008, revised, is filed.—No penalty attaches to the action of a withholding agent in refunding amounts improperly claimed in Form 1008, revised, properly executed, when the refundment is made in good faith and without intention to defraud the Government.

Withholding agents should be aware of the fact that the assessment will be made on their returns by this office in the light of the facts shown by the certificates and the Form 1008, revised, attached to their returns; and that reasonable care, under the penalties of law, is to be exercised in the performance of the duties imposed upon them by law.

When it is apparent on the face of Form 1008, revised, and from the facts in possession of the withholding agent that the claim is either erroneous or fraudulent, refundment should be denied. In such a case the claimant has proper redress by means of a claim for abatement or refundment as provided by Article 33 (c), Regulations No. 33, of January 5, 1914.

The same care should be exercised by collectors in authorizing refundment as would be expected of withholding agents in cases of refundment made on their own responsibility.

Bank stock, taxes paid by banks on, held by individuals.—Taxes assessed against the stockholders of a bank and paid by the bank in behalf of the stockholders do not constitute an allowable deduction from the gross income of the bank, but do constitute an allowable deduction in the return of the individual. If such individual is subject to the additional tax, the amount of taxes so paid should be included in his return as income, the said amount being considered as an additional dividend to the amount of the taxes paid.

Citizenship.—Determination by the State Department of right to registry is not conclusive upon the Treasury in fixing citizenship for income-tax purposes. Held, that native and naturalized status remains unless changed by affirmative action or forfeited by overt act.

Collecting agent, duties of, when no certificate is filed.—The first bank or collecting agency receiving an interest coupon from a domestic bond, unaccompanied by a certificate of ownership, shall withhold the normal tax of 1 per cent and execute Form 1002. The amount of tax withheld should be reported by the bank or collecting agency on monthly list return, Form 1044. The certificate should accompany the coupon to the debtor corporation in order that the normal tax may not be withheld again should the coupons pass through the hands of other banks or collecting agencies. The debtor corporation, upon receipt of Form 1002, should treat such certificate as an exemption certificate.

Compensation.—If an employee's total compensation, salary, and bonus is fixed, determined, and paid to him at one time, withholding should occur at that time; and both the company's withholding return and the employee's individual return of income for the year in which the amount is thus determined and paid should take consideration of the item. It follows that where a part of the compensation is in the form of a salary payable monthly, and a part in the form of a bonus not fixed and determined until on or after January 1 of the year following that in which the services were rendered, the two parts of any one year's compensation can not be considered together for the purposes of withholding the tax and making return; but the fixed salary of one year should be considered together with the bonus received on or after January 1 of that year. Thus, if the services were rendered in the year 1914 the employee's compensation would be liable to withholding whenever the fixed salary and the bonus paid on or after January 1, 1914, amounted to \$3,000, subject to the exemption claimed under the law. The bonus to be paid on or after January 1, 1915, will belong to the tax year 1915, together with the fixed salary received during 1915.

Compensation for services as trustee.—If no determination was made of the amount due the trustee of an estate as compensation for his services over a period of years until the trust was terminated, the amount allowed him should be re-

turned in full, subject to allowable deductions, as income for the year in which paid, and should not be prorated over the length of time during which he served as trustee.

Damages.—An amount received as the result of a suit or compromise for “pain and suffering” is held to be such income as would be taxable under the provision of law that includes “gains or profits and income derived from any source whatever.” An amount thus received would be, in its nature, similar to an amount paid to a person insured by an accident insurance policy on account of an accident sustained.

Disbursing officer, withholding by, to be governed by amounts paid by him alone.—An effort has been made to meet the views of certain departments that withholding should occur from the aggregate amounts received by an individual from the various disbursing officers within a department; but, after further and careful consideration of both the law and the administrative features involved, it has been determined that each disbursing officer must be governed by the amounts paid by him alone, and that it is not incumbent upon him to ascertain and take into consideration amounts that may have been paid or may be paid by other disbursing officers.

This view is in full accord with the provisions of the income tax law which makes “all officers and employees of the United States having the control, receipt, custody, disposal, or payment,” etc., personally liable for the normal tax of 1 per cent on amounts passing through their hands, subject to the character and amount of income and the exemptions fixed by law.

All rulings heretofore made on the subject, by letter or otherwise, that are in conflict herewith, are hereby overruled and superseded.

Dividends on stock of corporations subject to tax, when returnable.—Persons having an annual net income of \$3,000 or more, including the income derived from dividends or net earnings of corporations, etc., subject to tax, but whose total net income is less than \$20,000, and whose net income, ex-

clusive of the income derived from dividends or net earnings of such corporations, etc., is less than \$3,000 for the taxable year, are not required to make a return of annual net income.

Exemption (paragraph C).—A husband who has a wife and children whom he supports, but who is living apart from his wife under an agreement to do so, there being no judicial decree of separation, is entitled only to the specific exemption of \$3,000.

Exemption, specific, amounts of, allowed deceased husband and widow in same tax year.—In the return, if the amount of income necessitates one, the decedent's specific exemption for the entire year (\$4,000) should be claimed.

The widow is required to file a return on Form 1040, revised, in her own behalf if her entire income for the calendar year during which her husband died amounted to \$3,000 or more, and should claim a specific exemption of \$3,000 if not in a married status, living with a husband, on December 31 of that year.

Income of wife from sale of special articles is to be included in husband's return, when.—Unless the wife has a separate estate which requires her to file a separate return of income or to join with her husband in a return which shall set forth her income separately, a husband having a taxable income of his own should include in his return the income accruing to the wife from the sale of special magazine articles. If neither has a net income of \$3,000 or more, but together they have an aggregate net income exceeding \$4,000, a return of the joint income is required to be filed by either the husband or wife, and the income derived by the wife as above set forth should be included in such return. The actual proceeds coming into the wife's possession during the tax year constitute the income to be included, and not the amounts estimated upon acceptance prior to publication and payment.

Income tax as an allowable deduction.—For the purpose of claiming as allowable deductions the amounts paid to the collector and the amounts withheld at the source on account of the income tax, it is held that amounts of both classes are paid, within the meaning of the law, in the year in which

assessment is made and the tax paid to the collector of internal revenue.

Information from withholding returns of income.—The income tax law is specific and mandatory in the matter of safeguarding from publicity the information acquired by reason of its requirements relative to annual returns of income. The law imposes the penalty of "fine, imprisonment, dismissal from office, and forfeiture of right to hold office, for making known in any manner not provided by law the * * * amount or source of income * * * or any particular thereof * * * set forth or disclosed in any income return by any person * * * ."

The law does not provide for supplying corporations with a list of their bondholders drawn from withholding returns of income.

Loss.—(1) A person may have more than one business in the sense of being engaged in more than one trade, and may deduct losses incurred in all of them, provided that in each trade it can be clearly shown that he is actually a dealer, or trader, or manufacturer, or whatever the occupation may be. Neither the investment by an individual of money in the stock of a company nor the employment by the company of his services in any official capacity can serve to make the business in which the company was engaged a matter of his individual trade.

(2) A loss is none the less actual because an individual can not divest himself of the possession of worthless stock by sale, but that condition alone does not give the loss in question such a character as appears to the department to have been contemplated by the income tax law.

Losses in trade.—“A person not a recognized or licensed dealer in stocks and bonds makes \$5,000 profit during the year on a stock purchase and sale, and makes a loss during the same year on a stock purchase and sale of \$4,000. Is it correct to return this difference of \$1,000 in gains, or should the entire \$5,000 be returned as gain?”

This office holds that the profit of \$5,000 is income to be included in a return of income, and that the \$4,000 is not

such a loss as may be deducted in a return of income, for the reason that it is not incurred "in trade" within the accepted definition of that term.

Penalty of 50 per cent additional tax.—The income tax law is explicit and mandatory in its provisions relative to the additional assessment of 50 per cent of the tax otherwise due, in case of failure to file a return of income within the prescribed time, and does not give discretionary authority of remission of this additional tax to any officer of the Government.

Reimbursement of expenses.—Amounts received from a railroad company by way of reimbursement for expenses incident to an accident are not subject to the income tax.

Rental: Board, lodging, or other consideration received in lieu of cash.—Board, lodging, or other consideration received in lieu of rental is considered income equal in amount to the indebtedness in payment of which it is received, and should be included in any return of annual net income its recipient is required to render under the provisions of the income tax law.

Rental: Permanent improvements made under contract in addition to yearly.—Where a tenant enters into a contract under which he agrees to pay a yearly rental of a fixed sum, and in addition agrees to expend during the rental period a certain fixed sum in making improvements, or where he agrees to erect a building of a certain size, quality, and style of architecture in addition to a fixed annual rental, the amount expended in accordance with the contract in making permanent improvements, or in the erection of the building, forms part of the consideration named for the rental of the property, and the amount thus expended actually accrues to the benefit of the landlord and is, in effect, an advance payment of rental which is held to be income to the landlord at the time of its expenditure, and the tax computed on the amount expended for improvements should be deducted and withheld by the tenant, subject to authorized exemptions claimed, for the taxable year in which the benefits of such

expenditures accrued to the landlord, and not be prorated over the full period of the lease term.

Return on Form 1040, revised.—A return on Form 1040, revised, is not required in cases where the individual's tax liability has been or is to be paid at the source. In other words, when an individual is liable for the normal tax only, and his entire net income is subject to withholding, no return on Form 1040, revised, is required under the law. If his net income, not taking his specific exemption into consideration, includes items that are not subject to withholding, a return on Form 1040, revised, is required, although no tax may be due.

Undivided surplus of corporations, individual distributive interest in.—Subdivision 2 of paragraph A, income tax law of October 3, 1913, imposes no duty on the taxpayer to ascertain his distributive interest in the undivided surplus of corporations for the purpose of making return of the amount, in addition to the amount of dividends declared on his stock, unless the Secretary of the Treasury has certified that, in his opinion, such accumulation is unreasonable for the purposes of the business.

Withholding agent, requirements of, on obligations other than bonds.—All persons having the control or payment of annual income of another person exceeding \$3,000, such income being derived from fixed or determinable annual gains—such as the payment of interest upon the obligation of individuals, salaries, rents, wages, etc.—shall when the aggregate payments exceed \$3,000, withhold the normal tax of 1 per cent upon the entire amount unless exemption is claimed, and then only on the amount in excess of the exemption so claimed. Any tax withheld from income derived from this class of obligations should be reported by the debtor or withholding agent on annual list return, Form 1042, which should be filed with the collector of internal revenue for the district in which the debtor or withholding agent is located, and all certificates received during the year should accompany this return. When certificates have been filed claiming exemption to the full extent of the payments

made, no return is required; but the certificates should be forwarded to the proper collector of internal revenue. The annual return, or the certificates, or both, as the case may be, should be forwarded to the collector of internal revenue subsequent to the end of the calendar year and not later than March 1 of the succeeding year. The amount withheld, however, should not be forwarded to the collector until 30 days prior to March 1 of the year succeeding that in which the tax was withheld.

Withholding agent's return when Form 1008, revised, has been filed.—The entries on Form 1042 should be made by a withholding agent from the facts before him after he has received the authority of the collector for the refundment of a part of the amount previously withheld. When he has received notification of the amount of tax to be refunded, he has sufficient information to make correct entries on the form.

Thus, when a withholding agent has been authorized by a collector to refund, say, \$10, he will reduce the amount otherwise to be entered in the column headed "Amount of tax withheld" by \$10; he will reduce the amount otherwise to be entered in the column headed "Amount of income on which withholding agent is liable for tax" by \$1,000; he will increase the amount otherwise to be entered in column headed "Amount of exemption claimed" by \$1,000, and may change the heading to read "Amount of exemption and deductions claimed," if desired. The figures to be entered in the column headed "Amount of income" will remain the same, that amount being the actual amount passing through the hands of the withholding agent, whether or not Form 1008, revised, is filed.

Withholding from compensation paid at a per diem rate.—Per diem salaries paid on a straight basis of compensation for services rendered are subject to withholding at the source, the amount of compensation being fixed and periodic. If, however, a per diem salary rate is paid and the employee is required by the terms of his employment or contract to pay therefrom his own travel or other legitimate expenses incident

to the business of his employment, the income accruing to him from the per diem rate is not subject to withholding, the amount not being fixed or determinable.

Withholding returns required of corporations or their duly authorized withholding agents.—A corporation, having bonded indebtedness, which has withheld income tax during the preceding month is required to file a monthly list return, Form 1012, showing the amount of tax withheld. Certificates of ownership in which exemption is claimed to the extent of the amount of payment need not be listed, and if this is the only class of certificates received during the said preceding month, no return is required. However, such certificates should be forwarded to the proper collector of internal revenue, together with a letter of transmittal.

The return should be filed with the collector of internal revenue for the district in which the debtor corporation is located or has its principal place of business, provided the said debtor corporation has not filed with the said collector of internal revenue a notice of the appointment of a duly authorized withholding agent, in which case the debtor corporation is not required to file a monthly list return, Form 1012, or the corresponding annual list return, Form 1013.

This notice of appointment should be placed on file in the office of the collector of internal revenue for the district in which the debtor corporation is located or has its principal place of business, and the said collector should notify the collector of internal revenue for the district in which the duly authorized withholding agent is located. The duly authorized withholding agent is required to file its return with the collector of internal revenue for the district in which the said withholding agent is located, and is not required to file a return with the collector for the district in which the debtor corporation is located.

(T. D. 2137.)

Synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913.

The following synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913, on individuals, corporations, joint-stock companies, associations, and insurance companies, is published for the information of internal-revenue officers and others concerned. All rulings or parts of rulings heretofore made which are in conflict herewith are hereby revoked.

PART I.—*Rulings in Relation to Personal Income Tax.*

Aliens, nonresident, royalties paid to.—Royalties paid to nonresident aliens under an agreement of purchase of certain patent rights, the payments being based upon the quantity of goods produced by the use of such patents, are held to be income accruing to nonresident aliens by reason of property owned or business carried on within the United States; and, as provided in T. D. 2109 of December 28, 1914, the corporation or individual purchasing and using the patent rights is required to make full and complete returns of the income therefrom on Form 1040, revised, and to pay any and all tax, normal and additional, assessed upon such income of said nonresident aliens.

Commission retained by agent on his own life insurance policy.—A commission retained by a life insurance agent on his own life insurance policy is held to be income accruing to the agent, and should be included in his return of income for the assessment of the income tax.

Deductions: Expenses incurred in connection with salary received from a State or a political subdivision thereof not allowable.—Expenses incurred in earning income which is not subject to tax under the income tax law do not constitute allowable deductions in computing net income from other sources which are taxable under the law.

Husband and wife, separate incomes of.—The specific exemption of \$4,000 may be claimed in the separate return of either husband or wife, the other claiming no exemption; or may be prorated between the two.

The separate incomes of husband and wife should not be combined in a return of income for the purpose of assessing the additional or surtax.

Life insurance.—Dividends paid on life insurance policies that have not matured, whether such dividends are drawn in cash by the insured or applied to the reduction of the annual premium due, are not considered items of taxable income under the law, and should be excluded from a return of income.

Dividends from paid-up policies, however, are considered income to the recipient, and must be included in the annual return of income whenever the taxpayer's income, including such dividends, is in excess of \$20,000. They are considered the same as dividends or net earnings from corporations subject to a like tax and may, therefore, be excluded from a return of income in cases where the income is subject to the normal tax of 1 per cent only.

Partnership returns.—No return for a partnership, as such, is required to be made for the year 1914 unless it shall be hereafter specifically requested. Form 1065 was provided for the returns of annual net incomes of partnerships for the year 1913, as requested by circular-letter No. 2 of July 31, 1914, but no similar request has yet been made for partnership returns for the year 1914.

The individual members of a partnership firm should include in their individual returns of income to be filed on Form 1040, revised, for the calendar year 1914, their respective distributive interests in the partnership's profits ascertained for the business year ending on any date in 1914. Line 19, page 2, of Form 1040, revised, is provided for this purpose.

Powers of attorney.—A person acting under a power of attorney in the management of property having no title

thereto but with full power and authority to deal with the property as he sees fit is under no obligation to render returns as a fiduciary. A power of attorney does not constitute a fiduciary relationship within the meaning of the income tax law, and in all cases where no legal trust has been created in the estate controlled by the agent and attorney the liability under the law rests with the principal.

Rents, withholding from, accruing to joint owners.—When the joint owners of rented property do not desire to claim the exemption allowed by paragraph C of the income tax law and merely wish to file a statement with the lessees that will show the proportionate interests of the joint owners in order that the normal tax of 1 per cent may be properly deducted, if the amounts are such as to render deduction necessary, from the income accruing to the individuals, respectively, no certificate has been prescribed; but the desired information may be imparted to the withholding agents by the use of office Certificate 1000, revised, adapted to rentals, and executed by one of the joint owners.

Under these circumstances any proper statement of the joint ownership that may be made to the lessees will be acceptable to this office, as no certificate is required to be attached by the withholding agent to his annual return on Form 1042, his duty being fulfilled by withholding the tax from the individuals concerned, making the proper entries specified on the form relative to these individuals, and omitting the names of the individual joint owners whose interests were not sufficient in amount to require a deduction of the normal tax.

Return by a fiduciary.—A return of income by a fiduciary is required if the distributive interest of any one beneficiary in the amount entered on line 5, page 1 of Form 1041, revised, exceeds \$3,000.

Line 5, page 1 of Form 1041, revised, corresponds with line 3, page 1 of Form 1041, in use for the tax year 1913.

Trustee, return of.—The creator of the trust in each instance being the same person and the trustee in each instance being the same, the trustee should make a single return on

Form 1041, revised, for all of the trusts in his hands, notwithstanding the fact that they arise from different instruments. Where a trustee holds trusts *created by different persons* for the benefit of the same beneficiaries, he should make return for each trust separately on Form 1041, revised. It is to be noted that this ruling is based on the identity of the creator and the identity of the trustee of the various trusts, and not upon the identity of the beneficiaries.

PART II.—*Rulings in Relation to Corporation Income Tax.*

Bond discount deductible.—In the case of a corporation selling its own bonds at a discount, the amount of the discount should be prorated over the life of the bonds, and the proportionate part of such discount applicable to each year during the life of the bonds, constitutes an allowable deduction from the gross income of such year. The deduction from gross income in the case of 20-year bonds would be one-twentieth of the aggregate amount of the discount on the bonds sold.

Discount on bonds issued prior to the year 1909, if such discount was charged against the income of the year in which the bonds were sold, is held not to be deductible from the income of subsequent years, for the reason that the charging off prior to January 1, 1909, of the entire amount of the discount constitutes a closed transaction, and such transaction cannot be reopened for the purpose of reducing the taxable income of a corporation by deducting therefrom an aliquot part of the discount.

Change of name of corporation.—The mere change in name does not constitute a new corporation. If the business was continuous throughout the year, no change in management or operation other than the change of name, the return should be made covering the business transacted throughout the year, such return to be made by the corporation in the name which it bears at the end of the year, with a notation on the return to the effect that the name had been changed, giving both the old and new names. If, however, a distinct new corporation

was organized to take over the property of the old, both corporations will be required to make separate returns covering the periods of the year during which they were respectively in charge of the business.

Corporation owned by an organization exempt, liable.—A stock corporation all of whose stock is owned by "a corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of whose net income inures to the benefit of any member, stockholder, or individual," is required under the provisions of the Federal Income Tax Law to make a return of annual net income and pay income tax.

The fact that all of the stock of the corporation, except shares qualifying the directors, is owned by a corporation which itself comes within the class specifically enumerated as exempt does not relieve the first-named corporation from liability under the income tax law. The liability of a corporation to the requirements of the Federal Income Tax Law is not contingent upon the ownership of its stock.

Domestic corporation doing foreign business.—A domestic corporation doing the greater part of its business in the United States and having its principal place of business in this country and transacting business in Porto Rico through a branch office, is required to report in its return of annual net income its entire earnings from all sources, including those arising and accruing to the branch in Porto Rico or elsewhere.

The return of such corporation will be made to the collector of internal revenue of the district in this country in which is located its principal place of business.

Carrying charges part of the cost of assets.—T. D. 2005 is not intended to be so construed that carrying charges, if they consist of such expenditures as constitute allowable deductions from gross income, are to be added to the cost of the property if there is a gross income from which such charges as constitute allowable deductions may be deducted. It is intended, however, that in the case of a holding or de-

veloping company which has not yet reached the stage of having any income of consequence resulting from its corporate operations, the carrying charges or other excess over the incidental income received may be added to and made a part of the cost of the property.

As a general proposition involving the acquirement and holding of property for future sale, which property was acquired prior to the incidence of the tax and from which property there is but a nominal income, insufficient to meet the carrying charges, it would be proper for the corporation to add to the initial cost of the property the carrying charges, such as interest, insurance, and taxes actually paid, and from that amount deduct the incidental income which may have been received between the date of purchase and the date of the incidence of the tax. The result then shown will be the cost of the property or the amount to be excluded from the proceeds as capital when the property is sold.

Depreciation deduction.—The Federal Income Tax Law specifically provides that in making their returns of annual net income corporations may deduct, among other items, "all losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any."

Under this provision of the law assets of any character whatever which are not affected by use, wear and tear, are not subject to the depreciation authorized by the act. Real estate as such, and as distinct from the improvements thereon, is not reduced in value by reason of wear and tear, and it therefore follows that the "allowance" contemplated by depreciation in the case of real estate corporations does not apply to the ground, but is intended to measure the decline in the value of the improvements, which decline in value is due to wear and tear of such improvements.

In determining the cost of the real estate, in most cases no segregation is made of the cost of buildings as separate and distinct from the cost of the grounds upon which such buildings stand. In such cases, where the actual cost of the build-

ings or improvements at the time they were taken over by the corporation cannot be definitely determined, it will be sufficient for the purpose of determining the rate of depreciation to be used in computing the amount which will be deductible from gross income to estimate the actual value of the buildings or improvements as of January 1, 1909, provided such buildings were in existence at that time, and provided that the value placed upon such buildings shall not be in excess of the cost of such buildings, less an amount measuring the depreciation which had previously been sustained.

Dividends received by corporations.—The income received by corporations on account of dividends will be subject to tax in the hands of the company paying the same, being a part of its net earnings, and also in the hands of the company receiving the same.

The Federal Income Tax Law specifically sets out that there shall be returned as gross income all income received from all sources during the year for which the return is made, and it specifically enumerates the items which may be allowably deducted from such gross income. There is no provision of the law whereby dividends received from other corporations may be excluded from gross income or deducted therefrom. Each corporation is a separate and distinct entity and must return, for the purposes of the tax, the income which it receives (except interest on obligations of a State or its political subdivisions or on the obligations of the United States or its possessions), regardless of the source from which such income is received or regardless of the fact that a portion of such income may constitute dividends from other corporations subject to tax.

Exempt corporations.—In cases wherein corporations have, by affidavit or otherwise, clearly established the fact and satisfied collectors of internal revenue that they are exempt from the requirements of the Federal Income Tax Law, or are defunct, dissolved, or obsolete, and are no longer carrying on any business and have no property or income, returns will not be required of them after such condition has been clearly

established. But one showing of this character as to each such particular corporation will be required unless it shall later appear that any such corporation shall have such income within the meaning of the law as brings it within its requirements.

Expenses deductible by tenant corporations.—In the case of corporations which occupy leased premises under a lease contract which requires such corporations to make all necessary repairs or improvements, which repairs or improvements revert to the owner of the fee at the expiration of the lease, the tenant corporation is entitled to charge the cost of all such repairs and improvements to the expense of doing business. This expense of improvements, somewhat permanent in character, should, however, be prorated over the number of years constituting the term of the lease, and the amount deductible from gross income of each year would be the aliquot part of the cost of such repairs and improvements.

Foreign corporation doing business by an agent.—The Federal Income Tax Law provides that the normal tax imposed by it shall be levied, assessed, and collected upon the entire net income arising and accruing to foreign corporations from business transacted or capital invested in this country. Such a corporation may transact business or have capital invested in this country through and by an agent as completely as if it were transacting the business or investing the capital direct from its home office or through a duly established branch office in the United States. An agent who is doing business in this country, buying and selling certain products of the foreign corporation, is to all intents and purposes a branch of the foreign corporation, as through and by him the foreign corporation is transacting business in this country.

The buying and selling of a product in this country through a local agency or branch for and on behalf of a foreign corporation is clearly transacting business in this country within the meaning of the Federal Income Tax Law, and any net income arising and accruing because of the business so trans-

acted will be held to be subject to the tax imposed by the Federal Income Tax Law, and every foreign corporation carrying on business in the manner indicated will be required to make a return of annual net income covering the business so transacted.

Fiscal year returns of new corporations.—In the case of new corporations, if they shall file or shall have filed within the prescribed time, a notice designating the last day of some month as the close of the fiscal year, such corporations will be permitted to make their returns as of the period ended with the date designated, provided the period intervening between the date of organization of the corporation and the date designated as the close of its fiscal year does not exceed 12 months. If such period does exceed 12 months, the corporation will make a return for the portion of the calendar year preceding the beginning of the fiscal year, which return must be filed on or before the 1st day of March next following the calendar year of which it is a part. Corporations partially organized during the year 1914 should file a return for the period ended December 31, 1914, unless they shall have established a fiscal year for this purpose, and if they shall have actually done no business during the period for which the return is made, that fact will be set out in a notation on or a rider attached to the return.

Good will.—Good will does not represent a value attaching to physical property, and is held to be an intangible asset, whose value separate and apart from the business with which it is connected is not capable of determination. For the purpose of the income tax, it is capable of neither appreciation nor depreciation. Hence an amount claimed to represent its decline in value is not an allowable deduction from gross income in computing the tax liability of an individual or a corporation.

Gross value at the mine, etc.—“Gross value at the mine,” as contemplated in that provision of the Federal Income Tax Law which authorizes mining companies to deduct from gross income an amount to take care of depletion of natural de-

posits, is held to mean the gross price at which the product could be sold at the mine; that is, its actual bona fide market value.

The term "gross" as applied to "value" contemplates the aggregate value of the product at the mine determined upon the basis of the market conditions at the time and place, and is best defined as the price at which the product sells or would sell when delivered at the mouth of the mine in a marketable condition. Five per cent of the value thus determined will constitute the maximum amount which a mining corporation may deduct under the Federal Income Tax Law from gross income on account of depletion of natural deposits. This does not contemplate that the full 5 per cent of the gross value will be allowed if the aggregate amount calculated at a less rate will equal the cost in place of such deposits or secure to the corporation the return of its capital when the deposits have been exhausted.

Indebtedness secured by collateral.—The instruction given under item 6 (a) of the supplementary statement forming a part of the return Form 1031 is in error, in so far as it requires indebtedness wholly secured by collateral the subject of sale in the ordinary business of a corporation to be included in item 2 of the return proper.

Indebtedness to be included under item 2 of the return is all interest-bearing indebtedness, except that wholly secured by collateral the subject of sale in the ordinary business of the corporation.

Income from real estate transactions.—Gains and profits resulting from a real estate transaction are subject to income tax in so far as they represent actual net income for the year in which the transaction occurred. The amount of income to be returned for the purpose of the income tax in the case of the sale of capital assets is the amount received upon the sale of the property in excess of its original cost, provided both the purchase and sale of the property took place since January 1, 1909. If the property was acquired prior to January 1, 1909, the difference between the cost price and the

selling price will be considered income to the corporation, which income may be prorated according to the number of years the property was held prior to its sale, and the amount thus apportioned to the years subsequent to January 1, 1909, will be returned as income for the year in which the property was sold.

In determining the amount of income to be accounted for on this basis the corporation will consider mortgages, mortgage notes, or any other credits received in payment of the property as though they were cash, and if it should occur that the purchaser of any of the property should later default in payment the corporation will be entitled to take credit as a loss for the amount of loss actually sustained by reason of the default.

In determining the cost of the property for the purpose of arriving at the profit realized upon the sale it will be permissible for the corporation to add to the initial cost such carrying charges as interest, taxes, insurance, etc., provided such carrying charges have not been deducted from net income which the corporation may have had and returned for years subsequent to January 1, 1909, and prior to the date of the sale of the property.

Itemized statement on Form 1031.—In the case of public-service and all other corporations it is desired by this office that the supplementary statement which forms a part of the return Form 1031, prescribed by the Secretary of the Treasury for the use of such corporations in making their returns of annual net income, shall be prepared as far as practicable in detail.

It is not expected or required, however, that every particular item going to make up either gross income or the deductions therefrom shall be set out in the supplementary statement. It will be sufficient for the purpose of this office in the case of public-service corporations and other similar concerns that they supply the information by classes rather than giving the items in detail, classifying the income and expenditures in

the same manner as is required as to these items by the Interstate Commerce Commission.

Investment of depreciation fund.—The investment of depreciation reserve funds in the concern's own plant in the way of additions and extensions would appear to be such a diversion of the funds as is contemplated by Articles 132 and 133 of Regulations 33 and T. D. 1943. * * *

Investments in additions and extensions are primarily capital investments and the fact that the corporation is investing its depreciation funds in additions and betterments or improvements would seem to indicate that the amounts set aside on account of depreciation were in excess of a reasonable allowance which the law contemplates a corporation may deduct from its gross income, and when it shall appear that by reason of the investing of its depreciation funds in additions, betterments and improvements, it actually adds to the value of its capital assets it will be insisted upon that the amount by which the assets are increased on this account shall be returned as income and be subject to the income tax.

Interest-bearing indebtedness.—The amount of interest-bearing indebtedness of a corporation, outstanding at the close of the year, should be reported under item 2 of the return Form 1031 whether the interest accrued upon such indebtedness was actually paid within the year or not.

Items entering into cost of manufacture.—The only interest which constitutes an allowable deduction from gross income under the Federal Income Tax Law is the amount actually paid within the year on the maximum principal ascertained by adding to the full amount of the paid-up capital stock outstanding at the close of the year one-half of the interest-bearing indebtedness also then outstanding and such interest as is actually paid on indebtedness wholly secured by collateral the subject of sale in the ordinary business of the corporation.

Interest payments of this character, being allowable deductions from gross income, will not be taken into account as a part of the cost of manufacture for the reason that to consider

them an element of the cost of manufacture and to deduct them from gross income as specific items would in effect result in a double deduction of the amounts involved.

A corporation would not be permitted to include in its deductions the rental value of the property which it owns and occupies nor would it be permitted to deduct from gross income the interest which the capital invested or employed would earn were it otherwise invested.

It therefore follows that a corporation cannot take into account as a part of the cost of manufacture any possible earnings; that is, earnings which might accrue on its capital or investment had such capital been so placed as to earn a given rate of interest.

Liability of close corporation.—A corporation formed as a family affair to hold property together and not to sacrifice in selling does not come within the class of corporations specifically enumerated as exempt from the requirements of the Federal Income Tax Law, and is required to make a return of annual net income showing therein all income arising and accruing to it from all sources and to pay any income tax shown by such return to be due.

Limited partnerships.—Limited partnerships, which are held to be associations within the meaning of the Federal Income Tax Law, will use Form 1031 in making their returns of annual net income for the year 1914.

The profits of limited partnerships making returns in the same manner as corporations make returns will be treated the same as dividends of corporations and will be returned in the returns of individuals in the same manner as are dividends upon the stock of corporations; that is to say, the dividends received from such limited partnerships will not be subject to the normal tax in the hands of the members of the partnership receiving the same.

Lobbying expenses.—Sums of money expended for lobbying purposes and contributions for campaign expenses are held not to be an ordinary and necessary expense in the operation and maintenance of the business of a corporation, and

are therefore not deductible from gross income in arriving at the net income upon which the income tax is computed.

Publicity of supplementary statements.—The supplementary statement which is made a part of the return form prescribed for the use of corporations in making returns of annual net income is by express terms made a part of the return, and to the same extent that the return constitutes a public record and is open to inspection, to that extent the supplementary statement is also a public record and open to inspection "only upon the order of the President under rules and regulations prescribed by the Secretary of the Treasury and approved by the President."

Place of filing returns.—In the case of domestic corporations whose books of account and other data are kept in foreign countries, the returns should be made to the collector of internal revenue of the district in which they have branch offices in this country, if they have such branch offices. Otherwise, the returns of annual net income of such corporations should be made to the collector of the district in which are located the statutory offices of the corporations.

Private banks—Associations.—Private banks which have the form of corporate organizations, elect officers and a board of managers, have a distinctive name, a fixed situs, and distribute their net earnings upon the basis of the amount of capital invested by the members or owners are held to be associations within the meaning of the Federal Income Tax Law, and in their organized capacity should make returns of annual net income and pay any income tax thereby shown to be due.

The holders of the stock or the owners of the bank will be exempt from the normal tax to the extent of the dividends or earnings which they receive from such private banks as make returns in their organized capacity and pay income tax in accordance therewith. The individual owners of the bank will not be required to return as income for the purpose of the normal tax any dividends or earnings received from the private bank which pays the tax on its net earnings, but for

the purpose of the supertax the dividends will be returned as income by the individual stockholders or owners.

Private banks—Individual ownership.—When it can be clearly shown that a private bank is owned by one man, it is evident that such bank is not an association within the meaning of the Federal Income Tax Law, and that therefore such bank will not be required to make a return such as corporations and associations are required to make, but the individual owner, if he has a net income of \$3,000 or more, will be required to make a return on Form 1040, showing in such return the income which he receives not only from the bank but from all other sources.

Paid-up capital stock.—In making returns of annual net income for the purpose of the income tax, every corporation, in making such returns, must report under item 1 of the return form the total par value of its stock, both common and preferred, outstanding at the close of the year.

Stock outstanding at the close of the year and upon the basis of which dividends are or may be paid is held to be paid-up capital stock within the meaning of the law. For this purpose it is immaterial whether the stock be paid for in cash, promissory notes, or other assets. The fact that notes are given in payment of the stock issued and that the notes have not been paid in full at the time the return is made is immaterial.

Returns of holding companies.—In a case wherein a holding company actually takes up each month on its books its proportionate share of the earnings of the underlying companies, such holding company will be required to include in its gross income the amounts thus taken up regardless of the fact that the same may not have been actually paid to it in cash. The fact that the underlying companies credit to the holding company the amount of earnings to which it is entitled on the basis of the stock it holds, together with the fact that the holding company takes up on its books the amount thus credited, renders it incumbent upon the holding company to return these amounts as income, regardless of the fact that

the underlying companies needed these earnings and used them in making extensions and improvements and in furtherance of their business.

Expenditures for such extensions and improvements being chargeable to the property account of the subsidiary companies are not deductible from the gross income and will therefore not have the effect to reduce the earnings to their respective shares of which the stockholders are entitled.

Returns of subsidiary companies—Where made.—Under the provisions of the Federal Income Tax Law and the regulations of this department, every corporation, joint-stock company or association, and every insurance company, regardless of its relation to another corporation, is held to be a separate and distinct entity, and unless it comes within the class of organizations specifically enumerated in the act as exempt must make a separate and distinct return, complete in every detail.

If the subsidiary companies of any parent corporation making a return in any particular district have their principal places of business in the same district, such corporations will be listed by the collector of that district on his Form 632, and will be required to make separate returns as above indicated.

If, however, the subsidiary companies keep separate books of account and have their principal accounting offices in other districts, returns of such corporations will be made to the collector of internal revenue of the district in which they have such principal offices.

Real estate collateral.—The Federal Income Tax Law provides that in case of indebtedness wholly secured by collateral the subject of sale in the ordinary business of such corporation, joint-stock company or association, the total interest secured and paid by such company, corporation, or association within the year on any such indebtedness may be deducted as a part of its expenses of doing business.

Real estate to constitute collateral within the meaning of this clause of the law must be such real estate as is in fact

the subject of sale in the ordinary business of the corporation. If the corporation whose ordinary business is the purchase and sale of real estate has an office building under mortgage, which office building is not subject to sale in the ordinary business of the corporation, the interest paid on such mortgage will not be deductible under item 4 of the return form (1031), but in that case would be deductible under item 6 (a) of the return form to an amount not in excess of the limit fixed by the law as set out in said item.

Tentative returns.—In cases wherein foreign corporations or domestic corporations doing business in foreign countries are unable to assemble their data in time to make their returns of annual net income within the prescribed time, it will be permissible for such corporations upon a showing of this fact to file with the collector of internal revenue a tentative return in which there shall be approximated, as nearly as possible, the actual business transacted during the year.

This tentative return will be substituted by a true and accurate return as soon as the necessary data to make such true and accurate return shall be available.

Collectors of internal revenue are authorized to grant an extension of time not in excess of 30 days from the date when returns are due, such extension to be granted only in cases wherein the neglect to file the return within the prescribed time was due to the sickness or absence of an officer whose signature to the return was necessary. Foreign corporations or domestic corporations doing business in foreign countries cannot be granted an extension of time merely for the reason that they are unable to assemble their data to make the return within the prescribed time. In all such cases liability to the penalty of the act can be obviated only by filing a tentative return as hereinbefore indicated.

Tax payable at source on bond coupons.—Interest received by a corporation on bonds by the terms of which the debtor corporation is required to pay any tax which may be assessed thereon must be returned by the corporation receiving the same as a part of its gross income, and, notwithstanding the

fact that the debtor corporation may have withheld and paid the tax on such interest, the receiving corporation is not permitted to deduct from its gross income the amount of interest upon which this tax may have been paid.

Tax-free covenant.—The contract between the issuing corporation and the bondholder whereby the bonds are guaranteed to be tax free is a contract in which this office in the administration of the Federal Income Tax Law can have no concern. Each corporation must account for, in its return of annual net income, all income which it receives from all sources. Interest received by a corporation on bonds which it holds, whether they are guaranteed to be tax free or not, must be included in the income of the corporation receiving the same and so accounted for in its return of annual net income. In other words, the corporation receiving the income must pay the tax upon the same, if it have a net income subject to tax, and the matter of complying with the covenant of the bond is a matter to be adjusted between the debtor corporation and the bondholder.

Subsidiary companies must make returns.—In the case of parent corporations owning all or practically all of the stock of subsidiary companies, it is held that both corporations are separate and distinct entities and that each must make true and accurate returns, accounting for, in detail, their separate gross income and deductions therefrom, and each such company will be required to pay the income tax on the net earnings shown by such return.

It is not sufficient for the purpose of the Income Tax Law that the parent company shall report the gross income of the subsidiaries and deduct from such gross income the expenses of such subsidiaries. The net earnings of the subsidiary companies turned over to the parent company are dividends within the meaning of the law, and as such dividends are not deductible from gross income, the parent company must pay income tax on its net income notwithstanding the fact that the earnings out of which the dividends were paid had been subject to tax as against the subsidiary companies.

(T. D. 2152.)

Synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913.

The following synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913, on individuals, corporations, joint-stock companies, associations, and insurance companies is published for the information of internal-revenue officers and others concerned. All rulings or parts of rulings heretofore made which are in conflict herewith are hereby revoked.

PART I.—*Rulings in Relation to Personal Income Tax.*

Alien, nonresident, services rendered by a, in a foreign country.—If the status is that of a nonresident alien the compensation paid for services rendered in a foreign country, including the per diem allowance for business and travel expenses, is not subject to the income tax imposed by section 2 of the act of October 3, 1913.

Annuity.—The ruling with reference to annuities on page 2 of T. D. 2090 of December 14, 1914, is hereby amended by omitting therefrom the words, "When the settlement under such a contract is made in more than one payment, each payment will be considered as being composed of interest and a proportionate part of the principal. Where the entire annuity is composed of an interest return upon the principal sum paid therefor, the entire annuity is income," so that the ruling as amended will read as follows:

"**Annuity.**—The amount paid under a life insurance, endowment, or annuity contract is not income when returned to the person making the contract, either upon the maturity or surrender of the contract; but the amount by which the sum received exceeds the sum paid and coming into the hands of the person making the contract and payment is income."

Executor or administrator: Return on Form 1040, revised,

by.—The income-tax law of October 3, 1913, provides in paragraph E that—

The tax herein imposed upon annual gains, profits, and income not falling under the foregoing and not returned and paid by virtue of the foregoing shall be assessed by personal return under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

It is held that the income tax due from a deceased person is a debt against the estate in the hands of his executor or administrator; and under the authority quoted it has been prescribed by regulations that the executor or administrator shall file a return for the decedent in order that the amount due the Government from the decedent's estate may be determined and paid.

Income-tax laws of other countries.—American citizens, whether residing at home or abroad, resident aliens, and non-resident aliens receiving income from property owned and from business, trade, or profession carried on within the United States, all of whom are subject to the income-tax law of October 3, 1913, are not relieved from tax liability under that act by reason of the fact that they are also subject to the income-tax laws of other countries.

Scrip.—The ruling under this heading on page 17 of T. D. 2090 of December 14, 1914, is hereby amended by inserting after the word "of," in line 8, the words "*interest paid on,*" and omitting the word "*payment*" after the word "*scrip*" in same line, so that the ruling as amended will read:

"Scrip."—Scrip certificates issued by a corporation to its stockholders in lieu of dividends, such scrip certificates bearing interest and redeemable at a specified time not longer than one year from date of issue, are not corporate obligations similar to bonds, mortgages, or deeds of trust, and the interest payable thereon will not be subject to withholding except when the amount thereof payable to an individual in a calendar year exceeds \$3,000. Payment in scrip is held to be equivalent to payment in cash, and when the amount of interest paid on such scrip to any one individual in a calendar

year is in excess of \$3,000 the tax must be withheld and accounted for in excess of exemption claimed."

State, payment by, to contractor not exempt.—An individual who enters into a contract with a State, or any political subdivision thereof, for the construction of a public highway, is held not to be an officer or employee of the said State or a political subdivision thereof, and, therefore, the amounts received by him from the State or a political subdivision thereof, under the terms of the contract, are not exempt from tax under the provisions of the Federal Income Tax Law, and should be included in any return of annual net income he may be required to render.

PART II.—*Rulings in Relation to Corporation Income Tax.*

Assessments against private banks as associations.—In the case of private banks which have the form of corporations and which are held to be associations within the meaning of the Federal Income Tax Law, it is not the purpose of this office to assess the income tax against such banking associations and then also against the individual members of the association.

Income which the members of the association receive from the bank because of their investments therein will be considered dividends, and for the purposes of the normal tax these dividends will not be required to be returned by the individual members receiving them, but if any individual member of the association have an income, including the dividends, of more than \$20,000, the dividends in that case must be returned as income for the purposes of the additional or supertax.

Bank guaranty fund.—Banking corporations, which, pursuant to the laws of the States in which they are doing business, are required to set apart, keep, and maintain in their banks the amount levied and assessed against them by the State authorities as a "Depositors' guaranty fund," may deduct from their gross income in their returns of annual net income the amount so set apart each year to this fund, provided that such fund is set aside and carried to the credit of

the State banking board, or other duly authorized State officer, and may be withdrawn upon demand by such board or State officer to meet the demands of these officials in reimbursing depositors in insolvent banks, and provided further that no portion of the amount thus set aside and credited is returnable under the existing laws of the State to the assets of the banking corporation.

In such cases the amount of the guaranty fund thus levied against the banking corporation and so set apart, kept and maintained is no longer an asset of the bank, but is in the nature of a tax "imposed by authority of the State," and as such is deductible from the gross income of the banking corporation.

The first paragraph on page 19 of T. D. 2090, issued December 14, 1914, which paragraph bears the title "Bank Guaranty Fund," being in conflict with the above ruling, is hereby rescinded.

Bank taxes deductible.—The ruling of this office previously made to the effect that banking corporations are not permitted to deduct from gross income the amount of taxes paid for stockholders on the value of their capital stock outstanding applies only to the taxes levied upon the value of the capital stock and is not intended to operate so as to prevent banking corporations from deducting from their gross income any State tax imposed against the corporation itself, as an excise or franchise tax; that is, a tax which the corporation is required to pay to the State in order that it may transact business within the State.

Corporations liable to make returns.—The tax imposed by the Federal Income Tax Law is not imposed only upon such corporations as are organized and operated for profit. Any corporation, joint-stock company, or association, and any insurance company, no matter how created or organized or what the purposes of its organization may be, unless it comes within the class of organizations specifically enumerated in the act as exempt, will be required to make returns of annual net

income and pay income tax upon the net income which arises and accrues to it during the year.

A corporation is not exempt simply and only because it is primarily not organized and operated for profit. If income within the meaning of the law arises and accrues to a corporation which is not organized and operated for profit, such income will be subject to the tax imposed by this act.

It is therefore held that commercial men's associations, farmers' mutual fire insurance companies, and like organizations come within the requirements of the law.

Corporations not completely organized.—Corporations which have applied for and never received charters, or corporations which have received charters and never perfected their organizations, transacted no business and had no income whatever from any source, may, upon presentation of these facts to the collector of internal revenue, be relieved from the necessity of making returns of annual net income so long as they remain in this unorganized condition.

Cost of manufactured products.—A manufacturing corporation may include as an element of the cost of manufactured products the cost of the raw material, the cost of labor of the men who actually work on such products, as well as the cost of supervisory, or what may be denominated as "unproductive" labor, such as that of the foremen, inspectors, overseers, etc., provided such expenditures are not separately deducted from gross income in the return of annual net income.

The overhead charges referred to in Form 1031 should include the salaries of officers, clerk hire, and such other office expenses as do not have to do directly with the manufacture of the product.

Fixed salaries and commissions.—In cases wherein employees or officers of a corporation are paid a stated salary to which is added a certain percentage of the net profits of the corporation as compensation for services rendered, such corporation will be required to report under item 4 (a) 7 of Form 1030 or 1031 the amount of such combined payments

made to such individuals during the year, provided the combined amount is \$3,000 or more.

Irrigation bonds, district.—District irrigation bonds as a rule, if not always, are a lien upon the real estate affected by the irrigation project, and until the corporation has taken such steps as are necessary to protect its rights and enforce the collection of the bonds, it does not appear that the corporation would be warranted in writing out of its assets and deducting from income, as a loss, the face value or any other arbitrarily ascertained amount representing a loss or shrinkage in the value of such bonds.

No fixed rating for depreciation.—This office has fixed no definite rates by which an allowable deduction on account of depreciation in the value of any class of property subject to wear and tear is to be computed.

The rule which this office has established and which is very generally followed by corporations contemplates that an allowable depreciation deduction within the meaning of the Federal income tax law shall be computed upon the basis of the cost of the property and the probable number of years constituting its life.

The life of property necessarily depends upon its character, the uses to which it is put, and the conditions under which it is used. These elements being taken into consideration, corporations should, as a result of experience and observation, very closely approximate the number of years constituting the life of the property and upon this basis determine the rate of depreciation which annually occurs.

Royalties subject to income tax.—In the case of mines operated by a lessee on a royalty basis it is held that the lessor in disposing of his ores or natural deposits on the basis of royalties has a measure of profit in every ton of ore disposed of in this way, and that so much of the gross receipts on account of royalties as is in excess of depletion, not exceeding 5 per cent of the gross value of the output at the mine, plus any incidental expenses to which the corporation may be subject, is income within the meaning of the Federal income tax law and should be so returned by the lessor.

Salaries paid officers and employees.—In the case of salaries paid to officers and employees of corporations, this office has fixed no definite amounts which may be allowably deducted from gross income. Any amount representing a fair and reasonable compensation for the services rendered by the officers or employees, if actually paid, will constitute an allowable deduction from gross income. The salaries which constitute such allowable deductions should not depend upon the profits of the corporation, but should, as indicated, be a fair measure of compensation for services rendered, and upon this basis should not vary accordingly as the net income or profits of the corporation may vary from year to year.

Shrinkage in value of securities.—Bonds and securities are not subject to wear and tear within the meaning of the Federal income tax law, and therefore depreciation does not apply to any shrinkage in their value. Shrinkage in the value of securities as such does not constitute a loss actually sustained within the year, the amount of which is definitely ascertained. Therefore, under the rules of this office and consistent with the provisions of the law, a shrinkage in the value of bonds or like securities does not constitute an allowable deduction from gross income either as loss or depreciation.

The fact that bonds and similar securities were written off at the direction of the Comptroller of the Currency or the State banking department is not material. A mere book entry does not constitute either a loss or gain for the purpose of the income tax. The fact that bonds were written off does not necessarily imply that they are a total loss, nor is this act a conclusive proof that any loss occurred during the year for which the return is made.

Losses of this character are only ascertainable when the securities mature, are disposed of, or canceled.

Special compensation not deductible.—Special payments made by a corporation as extra compensation to certain of its employees may be deducted from gross income, if it is clearly shown that such payments are made as compensation for services rendered and are paid in pursuance of a contract expressed or implied.

If such so-called "compensation" is a gratuity or voluntary payment, for which no service is rendered, the amounts so paid are not deductible. In cases wherein the payments are made as compensation for services rendered, the employee receiving the same, if he be a "taxable person," will be required to include the amount of such compensation in his personal income tax return.

(T. D. 2153.)

Income from farm products and crop-share rentals to be included in the return of income for the year in which sold or exchanged for money or a money equivalent.

The term "farm" as herein used embraces the farm in the ordinarily accepted sense, plantations, ranches, stock farms, dairy farms, poultry farms, fruit farms, truck farms, and all lands used for similar purposes; and for the purposes of this decision all persons who cultivate, operate, or manage farms for gain or profit, either as owners or tenants, are designated as "farmers."

All gains, profits, and income derived from the sale or exchange of farm products, whether produced on the farm or purchased and resold by a farmer, shall be included in the return of income for the year in which the products were actually marketed and sold; and all allowable deductions, including the legitimate expenses incident to the production of that year or future years, may be claimed in the return of income for the tax year in which the right to such deductions shall arise, although the products to which such expenses and deductions are incidental may not have been sold or exchanged for money, or a money equivalent, during the year for which the return is rendered.

Rents received in crop shares shall likewise be returned as of the year in which the crop shares are reduced to money or a money equivalent, and allowable deductions, likewise, shall be claimed in the return of income for the tax year to

which they apply, although expenses and deductions may be incident to products which remained unsold at the end of the year for which the deductions are claimed. When farm products are held for favorable market prices, no deduction on account of shrinkage in weight or physical value, or losses by reason of such shrinkage or deterioration in storage, shall be allowed.

Cost of stock purchased for resale is an allowable deduction under the item of expense, but money expended for stock for breeding purposes is regarded as capital invested, and amounts so expended do not constitute allowable deductions except as hereinafter stated.

Where stock has been purchased for any purpose, and afterwards dies from disease or injury, or is killed by order of the authorities of a State or the United States, and the cost thereof has not been claimed as an item of expense, the actual purchase price of such stock, less any depreciation which may have been previously claimed, may be deducted as a loss. Property destroyed by order of the authorities of a State or of the United States may, in like manner, be claimed as a loss; but if reimbursement is made by a State or the United States, in whole or in part, on account of stock killed or property destroyed, the amount received shall be reported as income for the year in which reimbursement is made.

The cost of farm machinery is not an allowable deduction as an item of expense, but the cost of ordinary tools may be included under this item.

Under the sixth deduction enumerated in paragraph B, providing for "a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment * * *," there may be claimed a reasonable allowance for depreciation on farm buildings (other than a dwelling occupied by the owner), farm machinery, and other physical property, including stock purchased for breeding purposes; but no claim for depreciation on stock raised or purchased for resale will be allowed.

Farmers who keep books according to some approved method of accounting, which clearly show the net income, may prepare their returns from such books, although the method of accounting may not be strictly in accordance with the provisions of this decision.

A person cultivating or operating a farm for recreation or pleasure, on a basis other than the recognized principles of commercial farming, the result of which is a continual loss from year to year, is not regarded as a farmer. In such cases, if the expenses incurred in connection with the farm are in excess of the receipts therefrom, the entire receipts from sale of products may be ignored in rendering a return of income, and the expenses incurred, being regarded as personal expenses, will not constitute allowable deductions in the return of income derived from other sources.

(T. D. 2161.)

Synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913.

The following synopsis of rulings on questions relating to the income tax imposed by section 2 of the act of October 3, 1913, on individuals, corporations, joint-stock companies, associations, and insurance companies is published for the information of internal revenue officers and others concerned. All rulings or parts of rulings heretofore made which are in conflict herewith are hereby revoked.

PART II.—*Rulings in Relation to Corporation Income Tax.*

Amortization of bonds—Amending Article 135, Regulations No. 33.—That part of Article 135 of Regulations No. 33, relative to the amortization of bonds, which ends with the words “become due and payable,” has been entirely rescinded and superseded by T. D. 2005 and T. D. 2130. The remaining portion of Article 135, beginning with the words “with

respect to bond issues," remains in full force and effect and refers entirely to the treatment of bonds discounted in cases wherein corporations sell their bonds at a discount. The intention of this part of the article is to allow corporations selling their own bonds at a discount to prorate the discount over the life of the bonds and to deduct from gross income each year an aliquot part of the discount determined in accordance with the number of years which the bonds have to run from the date of issue.

This clause is not to be considered, however, as permitting corporations which had sold bonds issued prior to 1909 at a discount, and had at that time charged the entire amount of the discount into profit and loss, to take up such discount and prorate it over the life of the bonds for the purpose of deducting an aliquot part of such discount from the income of current years and thus reduce the taxable income.

Banks deducting capital stock tax to make amended returns.—The capital stock outstanding of a banking corporation is the personal property of the individual stockholder. Hence any tax paid on the value of this property is a liability of the owner, and the requirement of a State law that a bank shall pay the tax for the stockholder can not be considered as authority under which the bank may deduct from its gross income the taxes so paid.

If banking corporations in their returns of annual net income for the year 1913 or prior years actually deducted from gross income the amount of tax paid upon the value of the capital stock outstanding and in the hands of the stockholders, such corporations are required to file amended returns in which the amount of such tax so paid shall be eliminated from the deductions, and additional assessments will be returned accordingly.

Capital assets, value of; when.—In cases wherein property was taken over in exchange for the capital stock of a corporation at a par value greatly in excess of the true value of the property, and such property should be later sold, it will be necessary to ascertain as nearly as possible the true value

of the property at the time it was taken over, and any excess over this ascertained true value at which the property is sold will be held to be profit or income to the corporation.

Similar action may be taken in cases wherein corporations acquire property for a mere nominal sum and which had at the time of its acquirement a value greatly in excess of such sum. A careful estimate of the value of such property at the time it was acquired may be fixed and set up as the value representing the cost of the property, and any excess over such fixed value at which such property may be thereafter disposed of will be treated as income to be accounted for in accordance with the rules of this department in the case of the sale of capital assets. The value of the property fixed in the manner and for the purpose hereinbefore indicated will be subject to the approval of the Internal Revenue Bureau.

Error in T. D. 2130.—In the first two lines of the third paragraph of T. D. 2130 the words “for the years 1909 to 1913, inclusive,” should read “*for the years 1909 to 1912, inclusive.*”

Foreign corporations subject to income tax.—In the case of foreign corporations, section 2, act of October 3, 1913, provides that—

The normal tax hereinbefore imposed shall be levied, assessed, and paid annually upon the entire net income accruing from business transacted and capital invested within the United States.

When a foreign corporation sends a representative to this country to solicit business, the merchandise thus sold to be shipped direct to the consignee, it will be held that such corporation is transacting business in this country. The fact that the solicitor or representative has only a mailing address in this country is immaterial: he is none the less an agent of the foreign corporation. To the extent that he sells in this country goods or merchandise for the foreign corporation, to that extent the foreign corporation is transacting business in the United States, and the net income arising and accruing to the corporation by reason of the business so

transacted will be subject to the income tax imposed by section 2, act of October 3, 1913.

Any foreign corporation transacting business in this country in the manner hereinbefore indicated will make a return of annual net income to the collector of the district in which its representative has his mailing address, showing in such return the net income accruing to it from the business so transacted.

Income from tax-free bonds returnable.—The Federal income tax law specifically provides that corporations subject to the law must return, for the purpose of the tax, all income which they receive from every source, the only exception being income received on account of interest, on the obligations of a State or its political subdivisions or the obligations of the United States or its possessions.

The act also specifically enumerates the items which they may allowably deduct from the gross income so returned. Under the provisions of this act corporations must return as income the full amount of the interest received on bonds, although such bonds may contain a tax-free covenant—that is, a covenant in which the debtor corporation agrees to pay any tax assessed upon the bonds or income therefrom—and since there is no specific provision in the law for excluding or deducting from gross income interest upon bonds of this character, the receiving corporation can not allowably omit or deduct such interest from its gross income, and the same will necessarily be reflected in the net income upon which the tax is computed.

Income of contracting companies.—As this office requires no special system of bookkeeping, neither does it require any specific method by which the net income to be returned by corporations shall be determined.

In the case of a large contracting company, which has numerous uncompleted contracts which probably, in some cases, run for periods of several years, there does not appear to be any objection to such corporation preparing its return

in such manner that its gross income will be arrived at on the basis of completed work—that is to say, on jobs which have been finally completed and payments made during the year in which the return is made. If the gross income is arrived at in this method, the deductions from gross income should be limited to the expenditures made on account of such completed contracts.

Mutual insurance companies subject to tax.—The Federal income tax law provides—

That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portion of the premium deposits as are retained by the company for purposes other than the payment of losses and expenses and reinsurance reserves.

It would appear from this provision of the law that all assessments received by a mutual fire insurance company and not returned to the policyholders, but retained for purposes other than paying losses and expenses incurred during the year for which the return is made and for such reinsurance reserves as the laws of the State require, are taxable income.

Therefore, if mutual fire insurance companies retain out of moneys received on account of assessments an amount in excess of the losses, expenses, and reinsurance reserves of any particular year, that excess, plus amounts received from interest, dividends, or any other source, will be considered net income, upon which the tax will be assessed.

The above quoted provision of the law as construed by this office applies to *all* mutual fire insurance companies, regardless of the fact that some of them may not be primarily organized for profit.

Offers in compromise not acceptable, when.—In cases wherein corporations submit offers in compromise in lieu of the specific penalty imposed by section 38, act of August

5, 1909, or section 2, act of October 3, 1913, it is a condition precedent to the adjustment of the matter involved that the returns of the corporations for the year with respect to which the corporations are delinquent shall be filed.

Offers in compromise are acceptable only in cases where the corporations were delinquent in the matter of filing their returns and can not be considered as sufficiently satisfying the requirements of the law in cases wherein corporations fail or refuse to file any returns whatever.

Delinquency applies to the neglect of a corporation to file its return within the time prescribed by law and does not apply to the failure of a corporation to make a return at any time.

Therefore if returns are not filed, action looking to the enforcement of the specific penalty against corporations failing to file returns will be taken.

Sinking fund increment taxable income.—In cases wherein corporations set aside and place in a sinking fund under the control of trustees their own bonds or the bonds of other corporations which they may own, it is held that the fund thus set aside by the corporation is an asset of the corporation, and any increment to that fund as a result of investments made by the trustees having the same in charge is income to the corporation and should be so included and accounted for in its returns of annual net income.

If the trustees have invested the amount of the sinking fund reserve or any portion of it in the bonds of the corporation and such corporation pays to the trustees the interest on these bonds, such corporation will be permitted to deduct such interest from its gross income, provided the amount of the interest thus paid, plus the interest on any other outstanding indebtedness which it may have, does not exceed the limit fixed by the law, and provided further that the interest paid to the trustees, together with all other earnings on investments of the sinking fund made by the trustees, is included in the income of the corporation.

Subsidiaries to make returns, when.—The fact that a corporation maintains a number of subsidiary corporations for the purpose of protecting brands, trade-marks, and trade names is immaterial. The liability to make returns attaches to each subsidiary company by reason of the fact that it is a separate and distinct entity.

If such subsidiary companies actually have no net income or earnings and no expenses of operation, and the earnings accrue direct to the parent company, which company also pays direct the operating expenses of the subsidiaries, that fact must be clearly set out in the returns of the subsidiaries.

In any event, subsidiary corporations can not escape liability to make returns.

If, however, the subsidiary concerns are mere partnerships or branches of the parent company, and not incorporated organizations, then these subsidiary concerns will not be required to make returns of annual net income, but all of their earnings and expenses will be taken up and accounted for in the return of the parent company or corporation.

(T. D. 2162.)

Nontaxability of interest from bonds and dividends on stock of domestic corporations owned by nonresident aliens.

Interest from bonds and dividends on stock of domestic corporations owned by nonresident aliens are not subject to the income tax, whether such bonds or stock are physically located within or without the United States or whether they are in the possession of agents or trustees in some fiduciary capacity in the United States or otherwise.

All rulings and decisions in conflict herewith are hereby superseded and overruled.

(T. D. 2163—See T. D. 2274.)

Revision of T. D. 2048 defining taxable status of dividends paid on the capital stock from the current net earnings or established surplus created from the net earnings of corporations, joint-stock companies or associations, and insurance companies taxable upon their net income.

Cash dividends or their equivalent paid from the net earnings or the established surplus or undivided profits of corporations, joint-stock companies or associations, and insurance companies, if declared and paid on or after March 1, 1913, constitute taxable income in the hands of shareholders or beneficiaries when received, and should be returned when the total net income of any individual is in excess of \$20,000, inclusive of such dividends, and the additional tax should be paid thereon as on income for the year in which such dividends were received, without regard to the period in which the profits or surplus were earned or the period during which they were carried as surplus or undivided profits in the treasury or on the books of the corporations, etc.

Stock dividends issued as a bona fide and permanent increase of the capital stock of corporations, etc., without intent to evade the imposition of the personal income tax, are held to represent capital, and are not, therefore, subject to the income tax as gains, profits, and income in the hands of the stockholder.

If, however, the dividend stock should be surrendered to the corporation for cash or its equivalent, or if the assets of the corporation in any manner should be distributed by means of the stock dividend, the amount realized will be considered income for the year when so converted or received, and will be returned as income by the corporation or individual receiving the same.

T. D. 2048 of November 12, 1914, is hereby revised, and all rulings or parts of rulings heretofore made which are in conflict herewith are hereby revoked.

(T. D. 2193.)

Compromises.

Minimum amounts which will be accepted in settlement of the specific penalty.

With reference to corporations and individuals who have failed to file returns of annual net income within the prescribed time for the year 1914, you are advised that it has been determined by the Treasury Department to accept offers in compromise of the specific penalties in minimum sums as follows: \$10 from corporations and \$5 from individuals.

Where such delinquents failed to file returns for 1913 within the prescribed time, offers for 1914 delinquencies will be accepted as follows: \$15 from corporations and \$7.50 from individuals.

The foregoing applies only to those cases where there was no intention to evade the law or escape taxation.

The minimum sum of \$15 also applies to corporations "not organized for profit" which were relieved of the specific penalty for failing to file returns within the prescribed time for 1913.

In preparing compromise cases for transmission to this office, a notation should be made on Form 656 in the case of corporations and individuals also delinquent for 1913, in order that proper consideration can be given the offers in accordance with the above schedule.

In the case of delinquent withholding agents, offers in compromise of not less than \$5 in settlement of the specific penalty may be accepted for deposit where it is believed that the delinquency was due simply to oversight or lack of information concerning the requirements of the law. It should be made clear, however, that each case will be decided upon its merits, and where the facts indicate carelessness or disregard of the law such offers will no doubt be rejected.

Offers in compromise can not receive favorable consideration in cases where the returns for the year in question have not been filed. In such cases the recommendation that the

offer be accepted should be made "subject to the filing of the return," the date of filing to be furnished promptly upon receipt of the return.

(T. D. 2201—See 2224.)

Bad Debts.

Bad debts which, if collected, would constitute income in their entirety, are not deductible in a return of annual net income unless the amount of such items has been entered on the books of the taxpayer as income and such entry has been made within the year for which such amount is sought to be deducted as a bad debt.

Debts on account of unpaid wages, salaries, rents, or items of a similar character which, if collected, would be properly included in gross income in returns of annual net income will not constitute an allowable deduction from gross income as bad debts in ascertaining taxable net income unless the amount representing such debts has been entered on the books of the taxpayer and included as income in his income tax return for the year in which the deduction is claimed, and has also been charged off, as required by law, it being specifically provided that only such debts due to the taxpayer actually ascertained to be worthless and *charged off* within the year may be deducted as bad debts. An entry of the item on the books and its inclusion in gross income must, therefore, precede the charging off of such item and its deduction as a bad debt.

(T. D. 2224.)

Revising T. D. 2201 of April 28, 1915, relative to bad debts as an allowable deduction under paragraph B of the act of October 3, 1913.

Debts arising from unpaid wages, salaries, rents, and items of similar taxable income due and payable on or after March

1, 1913, will not be allowed as general deductions under paragraph B of the income tax law unless the income which they represent has been included in a return of gross income for the year in which the deduction as a bad debt is sought to be made or in a previous year and the debts themselves have been actually ascertained to be worthless and charged off.

All debts representing amounts that became due and payable prior to March 1, 1913, and not ascertained to be worthless prior to that date, whether representing income or a return of capital, are held to be allowable deductions under paragraph B of the law in a return of income for the year in which they are actually ascertained to be worthless and are charged off.

T. D. 2201 and all other regulations inconsistent herewith are hereby superseded.

(T. D. 2231—See T. D. 2289.)

Amendment of regulations requiring return and payment of tax by fiduciaries under trust estates.

Guardians, trustees, executors, administrators, agents, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity, hereinafter referred to as fiduciary agents, who hold in trust an estate of another person or persons, shall be designated the "source" for the purpose of collecting the income tax, and by filing notice with other debtors or withholding agents said fiduciary shall be exempt from having any income, due to them as such, withheld for any income tax by any other debtor or withholding agent. Other debtors or withholding agents upon receipt of such notice shall not withhold any part of such income from said fiduciary and will not in such case be held liable for normal tax of 1 per cent due thereon. The form of notice

to be filed with the debtor or withholding agent by fiduciary will be on Form 1015. Where such exemption is not claimed, notice thereof on Form 1019 should be filed with the withholding agent; provided, that Form 1019 can not be used when the income affected is payable by the fiduciary to a beneficiary who would not be liable under the statute for income tax if such income were payable to such beneficiary directly.

Fiduciaries shall, on or before March 1 of each year, make and render a return, in form prescribed by the Commissioner of Internal Revenue, of the income coming into their custody or control and management from each trust estate when the annual interest of any beneficiary in the income of said trust estate subject to the normal tax is in excess of \$3,000, and also when the undistributed income of the estate (as an entity or beneficiary in and of itself for tax purposes), consisting of income from dividends of corporations and other income (or of dividends alone), shall exceed \$20,000. In such cases the estate shall be reported as a beneficiary for the undistributed income.

Notice of failure to file a return as required shall be served upon the fiduciary. (See Art. 18.)

The entries on the first page of Form 1041, in column 3, headed "Beneficiaries' interest in amount reported on line 5, whether distributed or not," should not include their respective shares of income derived from dividends on the stock or from the net earnings of corporations, joint-stock companies, etc., subject to like tax, or the income on which the normal tax has been deducted and withheld at the source by the debtor or prior withholding agent. These two items should be treated as deductions in determining the amount of income subject to the normal tax and for which the fiduciary as withholding agent is to account.

The income of trust estates, as any other income, is subject to the income tax. When such income is received annually by a beneficiary of an estate the fiduciary will withhold the

normal tax due and subject to withholding by him. Any part of the annual income of trust estates not distributed becomes an entity and, as such, is liable for the normal and additional tax, which must be paid by the fiduciary. When the beneficiary is not in esse and the income of the estate is retained by the fiduciary, such income will be taxable to the estate as for an individual and the fiduciary will pay the tax, both normal and additional. When the beneficiary receives a part only of the income to which he is entitled from the estate and the balance is retained by the fiduciary the normal tax will be withheld on the income paid to the beneficiary and the amount of such income retained by the fiduciary will be treated as income taxable to the estate for both the normal and additional tax, which tax will be paid by the fiduciary. When the gross net income not distributed and remaining in the hands of a fiduciary is less than \$20,000 the estate will be listed as a beneficiary, and only the normal income tax will be assessable, and such tax will be paid by the fiduciary. When the gross net income not distributed and remaining in the hands of a fiduciary exceeds \$20,000 such income is subject to both the normal and additional tax, and the estate will be listed as a beneficiary and both the normal and additional tax will be paid by the fiduciary.

In all cases where fiduciaries act for minors or other incompetents they are held, for the purpose of the income tax, to be acting as the agents of such minors or other incompetents and must pay all tax (normal and additional) chargeable on such income in their hands as though the persons for whom they act were acting for themselves.

T. D. 1906 and T. D. 1943 and Articles 70, 71, 74, and 75 of Regulations 33, and all other regulations so far as inconsistent herewith, are hereby superseded.

(T. D. 2242.)

Nonresident aliens—Definition of residence in subdivision 1, paragraph A, and T. D. 2109 of December 28, 1914.

"Residence," as used in subdivision 1 of paragraph A of the act of October 3, 1913, and T. D. 2109, is held to be—

That place where a man has his true, fixed, and permanent home and principal establishment and to which, whenever he is absent, he has the intention of returning, and indicates permanency of occupation as distinct from lodging or boarding or temporary occupation.

For the purposes of the income tax it is held that where, for business purposes or otherwise, an alien is permanently located in the United States, has there his principal business establishment, and is there permanently occupied or employed, even though his domicile may be without the United States, he will be held to be within the definition of "every person residing in the United States, though not a citizen thereof * * *," while aliens who are physically present in the United States but only temporarily resident or employed therein (as for a season or other similarly definite term, and with the expectation or intention of leaving the United States upon the termination of employment or accomplishment of the purpose which necessitated presence in the United States) are within the class of "persons residing elsewhere * * *."

Aliens coming to the United States with the intention of becoming residents thereof within the meaning and intent of the income tax statute may establish that fact and have the privilege of resident aliens under the statute by filing with withholding agents a certificate in the following form, under oath, and which certificate shall be filed by said withholding agents with collectors of internal revenue as justification for withholding on the basis of "residence" in the United States.

FEDERAL INCOME TAX

CERTIFICATE.

Form
1078TREASURER DEPARTMENT.
Internal Revenue—Income Tax.*Certificate of residence—Claim by aliens.*

(To be filed by aliens with withholding agents when residence in the United States is a fact, for the purpose of claiming the benefit of residence for income-tax purposes, where otherwise status would be that of a nonresident alien.)

I hereby declare that I am a citizen or subject of.....; that I arrived in the United States on or about, and that it is my intention to establish and maintain a residence in the United States; that the address in the United States where any and all notices and communications relative to my liability for any income tax may be sent or mailed to me is

..... (Street and number.) (City.) (State.)

(Signed)

Sworn to and subscribed before me this day of.....
191.....

(Official capacity.)

Said certificate shall be in size 8 by 3½ inches and shall be printed to read from left to right along the 8-inch dimension. It shall be printed on blue paper corresponding in weight and texture to white writing paper 21 by 32, about 40 pounds to the ream of 500 sheets, and will be provided by the Government and furnished without cost to the users thereof.

(T. D. 2258.)

Execution of income-tax ownership certificates by banks and trust companies.

You are advised that as a convenience to banks and trust companies having a large number of ownership certificates to execute in the collection of interest on bonds it is hereby provided that the name of the bank or trust company may be printed or stamped and the facsimile of the signature of the person authorized to sign for the bank or trust company in executing the said ownership certificates may be printed

or stamped on the certificates: *Provided*, That in all cases the bank or trust company shall first file with the Commissioner of Internal Revenue a certificate of its authorization in substantially the following form:

(City.)

(Date.)

THE COMMISSIONER OF INTERNAL REVENUE, Washington, D. C.

The undersigned hereby authorizes the use of the facsimile signature shown below upon all income-tax ownership certificates issued in its name until this authorization is revoked by written notice to you.

(Name of bank or trust company.)

By
(Signature of person authorized to sign.)

(Official position.)

(Facsimile signature of person
authorized to sign.)

(T. D. 2267.)

Depreciation not allowed fiduciaries as a deduction from gross income in cases where no depreciation reserve is maintained, but the amount claimed as a deduction for depreciation is paid to the beneficiary as income.

To collectors of internal revenue:

In the case of a trust estate where the terms of the will or trust or the decree of a court of competent jurisdiction provide for keeping the corpus of the estate intact and where physical property forming a part of the corpus of such estate has suffered depreciation through its employment in business this office will permit a deduction from gross income for the purpose of caring for this depreciation, where the deduction is applied or held by the fiduciary for making good such depreciation. No depreciation deduction will be permitted by

fiduciaries otherwise than as here provided. Fiduciaries should set forth in connection with their returns the provision of the will or trust or decree requiring such depreciation deduction where any exists, or that actual depreciation occurs, the amount thereof, and that the same has been or will be preserved and applied as such.

The intent and purpose of this regulation is to deny to fiduciaries the right of claiming a deduction for depreciation in returns for the income tax of beneficiaries when, in fact, no depreciation reserve is established nor is authorized to be established, but the amount claimed as a deduction for depreciation is actually paid to the beneficiary as income.

All amounts paid by fiduciaries to beneficiaries of trust estates from the income of such trust estates are held to be distributions of income and will be treated for income-tax purposes in accordance with the provisions of the law and regulations applicable to the income of such beneficiaries.

Nothing in this regulation shall be construed to deny the right of trustees to make deductions from gross income for expenses actually incurred for repairs and such other necessary expenses other than betterments as may be required to preserve the corpus of the estate in accordance with the facts, actual application, or reservation of the necessary amounts or proper provisions of the trust, the requirements of law, or the order of a court of competent jurisdiction.

(T. D. 2274.)

Revision of T. D. 2163 of February 18, 1915, defining the taxable status of stock dividends paid on the capital stock from the current net earnings or established surplus created from the net earnings of corporations, joint-stock companies or associations, and insurance companies taxable upon their net income.

To collectors of internal revenue:

Cash dividends or their equivalent paid from the net earnings or the established surplus or undivided profits of corpo-

rations, joint-stock companies or associations, and insurance companies, if declared and paid on or after March 1, 1913, constitute taxable income in the hands of shareholders or beneficiaries when received, and should be returned when the total net income of any individual is in excess of \$20,000, inclusive of such dividends, and the additional tax should be paid thereon as on income for the year in which such dividends were received, without regard to the period in which the profits or surplus were earned or the period during which they were carried as surplus or undivided profits in the treasury or on the books of the corporations, etc.

Stock dividends paid from the net earnings or the established surplus or undivided profits of corporations, joint-stock companies or associations, and insurance companies, are held to be the equivalent of cash, and to constitute taxable income under the same conditions as cash dividends.

T. D. 2163 of February 18, 1915, is hereby revised, and all rulings or parts of rulings heretofore made which are in conflict herewith are hereby revoked.

(T. D. 2289, Revising 2231, Jan. 28, 1916.)

T. D. 2231 is hereby amended to provide that fiduciaries having control of any portion of income accruing during the year to known beneficiaries, other than trust estates as provided in T. D. 2231, but not distributed or paid to the beneficiaries during the year, shall, in rendering their annual return (Form 1041), give the name and address of each of said beneficiaries having a distributive interest in said income, and shall furnish all the information called for in such returns.

In all such cases the fiduciary shall withhold and pay to the collector, as provided by law, the normal tax of 1 per cent upon the distributive interest of each of said beneficiaries when such interest is in excess of \$3,000, the same as if said income were actually distributed and paid to the beneficiary.

Exemption under paragraph C, however, may be claimed by the beneficiary or his legal representative by filing his claim for exemption with the fiduciary agent.

When the normal tax on undivided annual net income has been so withheld, such tax shall not be again withheld when such portion of the income is actually distributed and paid to said beneficiary, but the beneficiary will account for such income in his return of income for the year in which the same is actually received by him, entering in column "A" the amount of income on which the normal tax has heretofore been paid.

PART V

United States Supreme Court opinion in *Brushaber v. Union Pacific Railroad*, January 24, 1916, construing the statute
and the Sixteenth Amendment.

See ¶13 for Synopsis, and the Index to this volume, for references to details, abbreviated as “Sup. Ct.,” followed by the page number.

SUPREME COURT OF THE UNITED STATES.

(No. 140. October Term, 1915.)

FRANK R. BRUSHABER, APPELLANT, v. UNION PACIFIC RAIL-
ROAD CO. APPEAL FROM THE DISTRICT COURT OF THE
UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW
YORK.

(January 24, 1916.)

Mr. Chief Justice White delivered the opinion of the court.

As a stockholder of the Union Pacific Railroad Co. the appellant filed his bill to enjoin the corporation from complying with the income-tax provisions of the tariff act of October 3, 1913 (Sec. II, ch. 16, 38 Stat., 166). Because of constitutional questions duly arising the case is here on direct appeal from a decree sustaining a motion to dismiss because no ground for relief was stated.

The right to prevent the corporation from returning and paying the tax was based upon many averments as to the repugnancy of the statute to the Constitution of the United States, of the peculiar relation of the corporation to the stockholders and their particular interests resulting from any of the administrative provisions of the assailed act, of the confusion, wrong, and multiplicity of suits and the absence of all means of redress which would result if the corporation paid the tax and complied with the act in other respects without protest, as it was alleged it was its intention to do. To put out of the way a question of jurisdiction, we at once say that in view of these averments and the ruling in *Pollock v. Farmers' Loan and Trust Co.* (157 U. S., 429), sustaining the right of a stockholder to sue to restrain a corporation under proper averments from voluntarily paying a tax charged to be unconstitutional on the ground that to permit such a suit did not violate the prohibitions of section 3224, Revised Statutes, against enjoining the enforcement of taxes, we are of opinion that the contention here made that there was no jurisdiction of the cause, since to entertain it would violate the provisions of the Revised Statutes referred to, is

without merit. Before coming to dispose of the case on the merits, however, we observe that the defendant corporation having called the attention of the Government to the pendency of the cause and the nature of the controversy and its unwillingness to voluntarily refuse to comply with the act assailed, the United States as *amicus curiae* has at bar been heard both orally and by brief for the purpose of sustaining the decree.

Aside from averments as to citizenship and residence, recitals as to the provisions of the statute and statements as to the business of the corporation contained in the first 10 paragraphs of the bill advanced to sustain jurisdiction, the bill alleged 21 constitutional objections specified in that number of paragraphs or subdivisions. As all the grounds assert a violation of the Constitution, it follows that in a wide sense they all charge a repugnancy of the statute to the sixteenth amendment, under the more immediate sanction of which the statute was adopted.

The various propositions are so intermingled as to cause it to be difficult to classify them. We are of opinion, however, that the confusion is not inherent, but rather arises from the conclusion that the sixteenth amendment provides for a hitherto unknown power of taxation; that is, a power to levy an income tax which, although direct, should not be subject to the regulation of apportionment applicable to all other direct taxes. And the far-reaching effect of this erroneous assumption will be made clear by generalizing the many contentions advanced in argument to support it, as follows: (a) The amendment authorizes only a particular character of direct tax without apportionment, and therefore if a tax is levied under its assumed authority which does not partake of the characteristics exacted by the amendment it is outside of the amendment and is void as a direct tax in the general constitutional sense because not apportioned. (b) As the amendment authorizes a tax only upon incomes "from whatever source derived," the exclusion from taxation of some income of designated persons and classes is not authorized, and hence the constitutionality of the law must be tested by the general

provisions of the Constitution as to taxation, and thus again the tax is void for want of apportionment. (c) As the right to tax "incomes from whatever source derived" for which the amendment provides must be considered as exacting intrinsic uniformity, therefore no tax comes under the authority of the amendment not conforming to such standard, and hence all the provisions of the assailed statute must once more be tested solely under the general and preexisting provisions of the Constitution, causing the statute again to be void in the absence of apportionment. (d) As the power conferred by the amendment is new and prospective the attempt in the statute to make its provisions retroactively apply is void, because so far as the retroactive period is concerned it is governed by the preexisting constitutional requirement as to apportionment.

But it clearly results that the proposition and the contentions under it, if acceded to, would cause one provision of the Constitution to destroy another; that is, they would result in bringing the provisions of the amendment exempting a direct tax from apportionment into irreconcilable conflict with the general requirement that all direct taxes be apportioned. Moreover, the tax authorized by the amendment, being direct, would not come under the rule of uniformity applicable under the Constitution to other than direct taxes, and thus it would come to pass that the result of the amendment would be to authorize a particular direct tax not subject either to apportionment or to the rule of geographical uniformity, thus giving power to impose a different tax in one State or States than was levied in another State or States. This result instead of simplifying the situation and making clear the limitations on the taxing power, which obviously the amendment must have intended to accomplish, would create radical and destructive changes in our constitutional system and multiply confusion.

But let us by a demonstration of the error of the fundamental proposition as to the significance of the amendment dispel the confusion necessarily arising from the arguments

deduced from it. Before coming, however, to the text of the amendment, to the end that its significance may be determined in the light of the previous legislative and judicial history of the subject with which the amendment is concerned and with a knowledge of the conditions which presumptively led up to its adoption and hence of the purpose it was intended to accomplish, we make a brief statement on those subjects.

That the authority conferred upon Congress by section 8 of Article I, "to lay and collect taxes, duties, imposts, and excises," is exhaustive and embraces every conceivable power of taxation has never been questioned, or, if it has, has been so often authoritatively declared as to render it necessary only to state the doctrine. And it has also never been questioned from the foundation, without stopping presently to determine under which of the separate headings the power was properly to be classed, that there was authority given, as the part was included in the whole, to lay and collect income taxes. Again it has never, moreover, been questioned that the conceded complete and all-embracing taxing power was subject, so far as they were respectively applicable, to limitations resulting from the requirements of Article I, section 8, clause 1, that "all duties, imposts, and excises shall be uniform throughout the United States," and to the limitations of Article I, section 2, clause 3, that "direct taxes shall be apportioned among the several States," and of Article I, section 9, clause 4, that "no capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken." In fact, the two great subdivisions embracing the complete and perfect delegation of the power to tax and the two correlated limitations as to such power were thus aptly stated by Mr. Chief Justice Fuller in *Pollock v. Farmers' Loan and Trust Co., supra*, at page 557: "In the matter of taxation, the Constitution recognizes the two great classes of direct and indirect taxes, and lays down two rules by which their imposition must be governed, namely, the rule of apportionment as to direct

taxes and the rule of uniformity as to duties, imposts, and excises." It is to be observed, however, as long ago pointed out in *Weazie Bank v. Fenno* (8 Wall., 533, 541), that the requirement of apportionment as to one of the great classes and of uniformity as to the other class were not so much a limitation upon the complete and all-embracing authority to tax, but in their essence were simply regulations concerning the mode in which the plenary power was to be exerted. In the whole history of the Government down to the time of the adoption of the sixteenth amendment, leaving aside some conjectures expressed of the possibility of a tax lying intermediate between the two great classes and embraced by neither, no question has been anywhere made as to the correctness of these propositions. At the very beginning, however, there arose differences of opinion concerning the criteria to be applied in determining in which of the two great subdivisions a tax would fall. Without pausing to state at length the basis of these differences and the consequences which arose from them, as the whole subject was elaborately reviewed in *Pollock v. Farmers' Loan and Trust Co.* (157 U. S., 429; 158 U. S., 601), we make a condensed statement which is, in substance, taken from what was said in that case. Early the differences were manifested in pressing on the one hand and opposing on the other the passage of an act levying a tax without apportionment on carriages "for the conveyance of persons," and when such a tax was enacted the question of its repugnancy to the Constitution soon came to this court for determination. (*Hylton v. United States*, 3 Dall., 171.) It was held that the tax came within the class of excises, duties, and imposts, and therefore did not require apportionment, and while this conclusion was agreed to by all the members of the court who took part in the decision of the case, there was not an exact coincidence in the reasoning by which the conclusion was sustained. Without stating the minor differences, it may be said with substantial accuracy that the divergent reasoning was this: On the one hand, that the tax was not in the class of direct taxes requiring apportionment, be-

cause it was not levied directly on property because of its ownership, but rather on its use, and was, therefore, an excise, duty, or impost; and, on the other, that in any event the class of direct taxes included only taxes directly levied on real estate because of its ownership.

Putting out of view the difference of reasoning which led to the concurrent conclusion in the *Hylton case*, it is undoubted that it came to pass in the legislative practice that the line of demarcation between the two great classes of direct taxes on the one hand and excises, duties, and imposts on the other, which was exemplified by the ruling in that case, was accepted and acted upon. In the first place, this is shown by the fact that wherever—and there were a number of cases of that kind—a tax was levied directly on real estate or slaves because of ownership it was treated as coming within the direct class, and apportionment was provided for, while no instance of apportionment as to any other kind of tax is afforded. Again, the situation is aptly illustrated by the various acts taxing incomes derived from property of every kind and nature which were enacted beginning in 1861 and lasting during what may be termed the Civil War period. It is not disputable that these latter taxing laws were classed under the head of excises, duties, and imposts, because it was assumed that they were of that character, inasmuch as, although putting a tax burden on income of every kind, including that derived from property, real or personal, they were not taxes directly on property because of its ownership. And this practical construction came in theory to be the accepted one, since it was adopted without dissent by the most eminent of the text-writers. (1 Kent Com., 254, 256; 1 Story Const., sec. 955; Cooley Const. Lim. (5th ed.), *480; Miller on the Constitution, 237; Pomeroy's Const. Law, sec. 281; Hare Const. Law, vol. 1, 249, 250; Burroughs on Taxation, 502; Ordronaux, Const. Leg., 225.)

Upon the lapsing of a considerable period after the repeal of the income-tax laws referred to, in 1894 an act was passed laying a tax on incomes from all classes of property and other

sources of revenue which was not apportioned, and which, therefore, was, of course, assumed to come within the classification of excises, duties, and imposts which were subject to the rule of uniformity but not to the rule of apportionment. The constitutional validity of this law was challenged on the ground that it did not fall within the class of excises, duties, and imposts, but was direct in the constitutional sense, and was therefore void for want of apportionment; and that question came to this court and was passed upon in *Pollock v. Farmers' Loan and Trust Co.* (157 U. S., 429; 158 U. S., 601). The court, fully recognizing in the passage which we have previously quoted the all-embracing character of the two great classifications, including, on the one hand, direct taxes subject to apportionment, and, on the other, excises, duties, and imposts subject to uniformity, held the law to be unconstitutional in substance for these reasons: Concluding that the classification of direct was adopted for the purpose of rendering it impossible to burden by taxation accumulations of property, real or personal, except subject to the regulation of apportionment, it was held that the duty existed to fix what was a direct tax in the constitutional sense so as to accomplish this purpose contemplated by the Constitution. (157 U. S., 581.) Coming to consider the validity of the tax from this point of view, while not questioning at all that in common understanding it was direct merely on income and only indirect on property, it was held that considering the substance of things it was direct on property in a constitutional sense, since to burden an income by a tax was, from the point of substance, to burden the property from which the income was derived and thus accomplish the very thing which the provision as to apportionment of direct taxes was adopted to prevent. As this conclusion but enforced a regulation as to the mode of exercising power under particular circumstances, it did not in any way dispute the all-embracing taxing authority possessed by Congress, including necessarily therein the power to impose income taxes if only they conformed to the constitutional regulations which were appli-

cable to them. Moreover, in addition, the conclusion reached in the *Pollock case* did not in any degree involve holding that income taxes generically and necessarily came within the class of direct taxes on property, but, on the contrary, recognized the fact that taxation on income was in its nature an excise entitled to be enforced as such unless and until it was concluded that to enforce it would amount to accomplishing the result which the requirement as to apportionment of direct taxation was adopted to prevent, in which case the duty would arise to disregard form and consider substance alone, and hence subject the tax to the regulation as to apportionment, which otherwise as an excise would not apply to it. Nothing could serve to make this clearer than to recall that in the *Pollock case*, in so far as the law taxed incomes from other classes of property than real estate and invested personal property—that is, income from “professions, trades, employments, or vocations” (158 U. S., 637)—its validity was recognized; indeed, it was expressly declared that no dispute was made upon that subject, and attention was called to the fact that taxes on such income had been sustained as excise taxes in the past. (Ib., p. 635.) The whole law was, however, declared unconstitutional on the ground that to permit it to thus operate would relieve real estate and invested personal property from taxation and “would leave the burden of the tax to be borne by professions, trades, employments, or vocations, and in that way what was intended as a tax on capital would remain, in substance, a tax on occupations and labor” (*ib.*, p. 637), a result which it was held could not have been contemplated by Congress.

This is the text of the amendment:

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

It is clear on the face of this text that it does not purport to confer power to levy income taxes in a generic sense—an authority already possessed and never questioned—or to limit and distinguish between one kind of income taxes and another,

but that the whole purpose of the amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source whence the income was derived. Indeed, in the light of the history which we have given and of the decision in the *Pollock case* and the ground upon which the ruling in that case was based, there is no escape from the conclusion that the amendment was drawn for the purpose of doing away for the future with the principle upon which the *Pollock case* was decided; that is, of determining whether a tax on income was direct, not by a consideration of the burden placed on the taxed income upon which it directly operated, but by taking into view the burden which resulted on the property from which the income was derived, since in express terms the amendment provides that income taxes, from whatever source the income may be derived, shall not be subject to the regulation of apportionment. From this, in substance, it indisputably arises, first, that all the contentions which we have previously noticed concerning the assumed limitations to be implied from the language of the amendment as to the nature and character of the income taxes which it authorizes find no support in the text and are in irreconcilable conflict with the very purpose which the amendment was adopted to accomplish. Second, that the contention that the amendment treats a tax on income as a direct tax, although it is relieved from apportionment and is necessarily therefore not subject to the rule of uniformity, as such rule only applies to taxes which are not direct, thus destroying the two great classifications which have been recognized and enforced from the beginning, is also wholly without foundation, since the command of the amendment, that all income taxes shall not be subject to apportionment by a consideration of the sources from which the taxed income may be derived, forbids the application to such taxes of the rule applied in the *Pollock case* by which alone such taxes were removed from the great class of excises, duties, and imposts subject to the rule of uniformity and were placed under the other or direct class. This must be unless it can be said that although the Constitution, as a result

of the amendment, in express terms excludes the criterion of source of income, that criterion yet remains for the purpose of destroying the classifications of the Constitution by taking an excise out of the class to which it belongs and transferring it to a class in which it can not be placed consistently with the requirements of the Constitution. Indeed, from another point of view, the amendment demonstrates that no such purpose was intended and, on the contrary, shows that it was drawn with the object of maintaining the limitations of the Constitution and harmonizing their operation. We say this because it is to be observed that although from the date of the *Hylton case*, because of statements made in the opinions in that case, it had come to be accepted that direct taxes in the constitutional sense were confined to taxes levied directly on real estate because of its ownership, the amendment contains nothing repudiating or challenging the ruling in the *Pollock case* that the word direct had a broader significance since it embraced also taxes levied directly on personal property because of its ownership, and therefore the amendment at least impliedly makes such wider significance a part of the Constitution—a condition which clearly demonstrates that the purpose was not to change the existing interpretation except to the extent necessary to accomplish the result intended; that is, the prevention of the resort to the sources from which a taxed income was derived in order to cause a direct tax on the income to be a direct tax on the source itself, and thereby to take an income tax out of the class of excises, duties, and imposts and place it in the class of direct taxes.

We come, then, to ascertain the merits of the many contentions made in the light of the Constitution as it now stands; that is to say, including within its terms the provisions of the sixteenth amendment as correctly interpreted. We first dispose of two propositions assailing the validity of the statute on the one hand because of its repugnancy to the Constitution in other respects, and especially because its enactment was not authorized by the sixteenth amendment.

The statute was enacted October 3, 1913, and provided for

a general yearly income tax from December to December of each year. Exceptionally, however, it fixed a first period embracing only the time from March 1, to December 31, 1913, and this limited retroactivity is assailed as repugnant to the due-process clause of the fifth amendment and as inconsistent with the sixteenth amendment itself. But the date of the retroactivity did not extend beyond the time when the amendment was operative, and there can be no dispute that there was power by virtue of the amendment during that period to levy the tax, without apportionment, and so far as the limitations of the Constitution in other respects are concerned, the contention is not open, since in *Stockdale v. Insurance Companies* (20 Wall., 323, 331), in sustaining a provision in a prior income-tax law which was assailed because of its retroactive character, it was said:

The right of Congress to have imposed this tax by a new statute, although the measure of it was governed by the income of the past year, cannot be doubted; much less can it be doubted that it could impose such a tax on the income of the current year, though part of that year had elapsed when the statute was passed. The joint resolution of July 4, 1864, imposed a tax of 5 per cent upon all income of the previous year, although one tax on it had already been paid, and no one doubted the validity of the tax or attempted to resist it.

The statute provides that the tax should not apply to enumerated organizations or corporations, such as labor, agricultural, or horticultural organizations, mutual savings banks, etc., and the argument is that as the amendment authorized a tax on incomes "from whatever source derived," by implication it excluded the power to make these exemptions. But this is only a form of expressing the erroneous contention as to the meaning of the amendment, which we have already disposed of. And so far as this alleged illegality is based on other provisions of the Constitution, the contention is also not open, since it was expressly considered and disposed of in *Flint v. Stone Tracy Co.* (220 U. S., 108, 173).

Without expressly stating all the other contentions, we summarize them to a degree adequate to enable us to typify and dispose of all of them.

1. The statute levies one tax called a normal tax on all incomes of individuals up to \$20,000 and from that amount up by gradations, a progressively increasing tax called an additional tax, is imposed. No tax, however, is levied upon incomes of unmarried individuals amounting to \$3,000 or less nor upon incomes of married persons amounting to \$4,000 or less. The progressive tax and the exempted amounts, it is said, are based on wealth alone, and the tax is therefore repugnant to the due-process clause of the fifth amendment.

2. The act provides for collecting the tax at the source—that is, makes it the duty of corporations, etc., to retain and pay the sum of the tax on interest due on bonds and mortgages, unless the owner to whom the interest is payable gives a notice that he claims an exemption. This duty cast upon corporations, because of the cost to which they are subjected, is asserted to be repugnant to due process of law as a taking of their property without compensation, and we recapitulate various contentions as to discrimination against corporations and against individuals predicated on provisions of the act dealing with the subject:

(a) Corporations indebted upon coupon or registered bonds are discriminated against, since corporations not so indebted are relieved of any labor or expense involved in deducting and paying the taxes of individuals on the income derived from bonds.

(b) Of the class of corporations indebted as above stated, the law further discriminates against those which have assumed the payment of taxes on their bonds, since although some or all of their bondholders may be exempt from taxation, the corporations have no means of ascertaining such fact, and it would therefore result that taxes would often be paid by such corporations when no taxes were owing by the individuals to the Government.

(c) The law discriminates against owners of corporate bonds in favor of individuals none of whose income is derived from such property, since bondholders are, during the in-

terval between the deducting and the paying of the tax on their bonds, deprived of the use of the money so withheld.

(d) Again corporate bondholders are discriminated against because the law does not release them from payment of taxes on their bonds even after the taxes have been deducted by the corporation, and therefore if after deduction the corporation should fail, the bondholders would be compelled to pay the tax a second time.

(e) Owners of bonds the taxes on which have been assumed by the corporation are discriminated against, because the payment of the taxes by the corporation does not relieve the bondholders of their duty to include the income from such bonds in making a return of all income, the result being a double payment of the taxes, labor and expense in applying for a refund, and a deprivation of the use of the sum of the taxes during the interval which elapses before they are refunded.

3. The provision limiting the amount of interest paid which may be deducted from gross income of corporations for the purpose of fixing the taxable income to interest on indebtedness not exceeding one-half the sum of bonded indebtedness and paid-up capital stock, is also charged to be wanting in due process because discriminating between different classes of corporations and individuals.

4. It is urged that want of due process results from the provision allowing individuals to deduct from their gross income dividends paid them by corporations whose incomes are taxed and not giving such right of deduction to corporations.

5. Want of due process is also asserted to result from the fact that the act allows a deduction of \$3,000 or \$4,000 to those who pay the normal tax; that is, whose incomes are \$20,000 or less, and does not allow the deduction to those whose incomes are greater than \$20,000; that is, such persons are not allowed for the purpose of the additional or progressive tax a second right to deduct the \$3,000 or \$4,000 which they have already enjoyed. And a further violation

of due process is based on the fact that for the purpose of the additional tax no second right to deduct dividends received from corporations is permitted.

6. In various forms of statement want of due process, it is, moreover, insisted, arises from the provisions of the act allowing a deduction for the purpose of ascertaining the taxable income of stated amounts on the ground that the provisions discriminate between married and single people and discriminate between husbands and wives who are living together and those who are not.

7. Discrimination and want of due process results, it is said, from the fact that the owners of houses in which they live are not compelled to estimate the rental value in making up their incomes, while those who are living in rented houses and pay rent are not allowed, in making up their taxable income, to deduct rent which they have paid, and that want of due process also results from the fact that although family expenses are not as a rule permitted to be deducted from gross to arrive at taxable income, farmers are permitted to omit from their income return certain products of the farm which are susceptible of use by them for sustaining their families during the year.

So far as these numerous and minute, not to say in many respects hypercritical, contentions are based upon an assumed violation of the uniformity clause, their want of legal merit is at once apparent, since it is settled that that clause exacts only a geographical uniformity, and there is not a semblance of ground in any of the propositions for assuming that a violation of such uniformity is complained of. (*Knowlton v. Moore*, 178 U. S., 41; *Patton v. Brady*, 184 U. S., 608, 622; *Flint v. Stone Tracy Co.*, 220 U. S., 107, 158; *Billings v. United States*, 232 U. S., 608, 622.)

So far as the due-process clause of the fifth amendment is relied upon, it suffices to say that there is no basis for such reliance, since it is equally well settled that such clause is not a limitation upon the taxing power conferred upon Congress by the Constitution; in other words, that the Constitution

does not conflict with itself by conferring upon the one hand a taxing power and taking the same power away on the other by the limitations of the due-process clause. (*Treat v. White*, 181 U. S., 264; *Patton v. Brady*, 184 U. S., 608; *McCray v. United States*, 195 U. S., 27, 61; *Flint v. Stone Tracy Co.*, *supra*; *Billings v. United States*, 232 U. S., 261, 282.) And no change in the situation here would arise even if it be conceded, as we think it must be, that this doctrine would have no application in a case where, although there was a seeming exercise of the taxing power, the act complained of was so arbitrary as to constrain to the conclusion that it was not the exertion of taxation, but a confiscation of property; that is, a taking of the same in violation of the fifth amendment, or, what is equivalent thereto, was so wanting in basis for classification as to produce such a gross and patent inequality as to inevitably lead to the same conclusion. We say this because none of the propositions relied upon in the remotest degree present such questions.

It is true that it is elaborately insisted that although there be no express constitutional provision prohibiting it, the progressive feature of the tax causes it to transcend the conception of all taxation and to be a mere arbitrary abuse of power which must be treated as wanting in due process. But the proposition disregards the fact that in the very early history of the Government a progressive tax was imposed by Congress, and that such authority was exerted in some if not all of the various income taxes enacted prior to 1894, to which we have previously adverted. And over and above all this the contention but disregards the further fact that its absolute want of foundation in reason was plainly pointed out in *Knowlton v. Moore*, *supra*, and the right to urge it was necessarily foreclosed by the ruling in that case made. In this situation it is, of course, superfluous to say that arguments as to the expediency of levying such taxes or of the economic mistake or wrong involved in their imposition are beyond judicial cognizance. Besides this demonstration of the want of merit in the contention based upon the progressive feature of the tax,

the error in the others is equally well established, either by prior decisions or by the adequate bases for classification which are apparent on the face of the assailed provisions; that is, the distinction between individuals and corporations, the difference between various kinds of corporations, etc. *Knowlton v. Moore, supra*; *Flint v. Stone Tracy Co., supra*; *Billings v. United States, supra*; *National Bank v. Commonwealth* (9 Wall., 353); *National Safe Deposit Co. v. Illinois* (232 U. S., 58, 70). In fact, comprehensively surveying all the contentions relied upon, aside from the erroneous construction of the amendment which we have previously disposed of, we can not escape the conclusion that they all rest upon the mistaken theory that although there be differences between the subjects taxed, to differently tax them transcends the limit of taxation and amounts to a want of due process, and that where a tax levied is believed by one who resists its enforcement to be wanting in wisdom and to operate injustice, from that fact in the nature of things there arises a want of due process of law and a resulting authority in the judiciary to exceed its powers and correct what is assumed to be mistaken or unwise exertions by the legislative authority of its lawful powers, even although there be no semblance of warrants in the Constitution for so doing.

We have not referred to a contention that because certain administrative powers to enforce the act were conferred by the statute upon the Secretary of the Treasury, therefore it was void as unwarrantedly delegating legislative authority, because we think to state the proposition is to answer it. *Field v. Clark* (143 U. S., 649); *Buttfield v. Stranahan* (192 U. S., 470, 496); *Oceanic Steam Navigation Co. v. Stranahan* (214 U. S., 320).

Affirmed.

Mr. Justice McReynolds took no part in the consideration and decision of this case.

PART VI

**FORMS FOR INDIVIDUAL AND CORPORATION
RETURNS, WITH INSTRUCTIONS**

**Different forms, but essentially similar, are required for
Insurance Companies, Fiduciaries, and withholding agents.
See paragraph 53.**

Form 1031.

(Revised September, 1915.)

CORPORATIONS

(OTHER THAN INSURANCE COMPANIES)

RETURN OF NET INCOME for the { **Calendar** } ***Fiscal** } year ended....., 191....

by.....
(Name of corporation, joint-stock company, or association.) (Kind of business.)

and located at.....
Street and number.) (City or town.) (State.)

(The address given must be that of the principal place of business of the corporation.)

If no figures are to be extended opposite any item in the return,
the word "None" should be inserted.

1. Total amount of paid-up capital stock outstanding at the close of the year or, if no capital stock, the capital employed in the business.....	\$.....			
2. Total amount of bonded and other interest-bearing indebtedness outstanding at close of year, exclusive of indebtedness wholly secured by collateral, the subject of sale in ordinary business of the corpora- tion.....	\$.....			

GROSS INCOME:	Dollars	Cts.
3. (a) From operations.....	\$.....
(b) From rentals.....	\$.....
(c) From interest.....	\$.....
(d) From dividends received.....	\$.....
(e) From other sources.....	\$.....
Total gross income.....	\$.....
Total deductions.....	\$.....
8. Net income.....	\$.....
9. Tax assessable.....	\$.....
10. 50 per cent additional.....	\$.....
Total.....	\$.....

FEDERAL INCOME TAX

DEDUCTIONS	Dollars	Cts.
4. (a) Expenses, general.....	\$
(b) Payments in lieu of rent.....	\$
5. (a) Losses sustained.....	\$
(b) Depreciation.....	\$
(c) Depletion (natural deposits).....	\$
6. (a) Interest paid (see Note 6a).....	\$
(b) Interest paid by banks on deposits.....	\$
7. (a) Taxes, domestic paid.....	\$
(b) Taxes, foreign paid.....	\$
Total deductions.....	\$

We, president, and treasurer, of the above-named company, whose return of net income is herein set forth, being severally duly sworn, each for himself, deposes and says that the items entered in the foregoing report and in the supplementary statement and in any additional list or lists attached to or accompanying this return are, to his best knowledge and belief and from such information as he has been able to obtain, true and correct in each and every particular.

.....
President.

.....
Treasurer.

Sworn to and subscribed before me this day of 191.....

(Seal of officer
taking affidavit.)

.....
.....
(Official capacity.)

GENERAL INSTRUCTIONS.

Time of filing returns.—Returns made on the basis of a calendar year must be filed on or before March 1 with the collector of internal revenue of the district in which is located the principal place

of business of the corporation; if made on the basis of a *fiscal year** they must be filed within 60 days after the close of such year.

**Fiscal year.*—Corporations desiring to make returns of annual net income on the basis of a fiscal year other than the calendar year, must, not less than 30 days prior to March 1, file with the collector a notice in writing designating the last day of some month as the close of such fiscal year. A return for that portion of the calendar year preceding the first full fiscal year thus established must be filed on or before March 1 of the next calendar year, and the return for the fiscal year (12 months) must be filed on or before the last day of the 60-day period next following the closing date of the fiscal year.

Extension of time.—In the case of neglect to file the return within the prescribed time, the collector is authorized to grant an extension of the filing period not exceeding 30 days, provided such neglect was due to absence or sickness of an officer required to sign the return, and provided an application in writing is made prior to the expiration of the period for which extension may be granted.

Signatures and verification.—Returns must be signed and verified by two officers of the corporation, that is, by the president vice-president, or other principal officer, and the treasurer or other financial officer, and must be sworn to before an officer authorized to administer oaths and the seal of the attesting officer, if he is required to have a seal, must be impressed on the return in the space provided for that purpose.

Subsidiary companies.—The corporation making this return should attach hereto a list of all its subsidiary companies, if any, with the location of the principal place of business of each. Each subsidiary company must make a separate and distinct return.

Foreign corporations.—Foreign corporations subject to the law are required to make returns to the collector of the district in which the principal place of business in the United States is located. The gross income to be returned is that received from business transacted and capital invested in the United States. The deductions allowable are those losses and disbursements incident and necessary to the transaction of the business in this country, all as specifically set out in the act. Foreign taxes are not deductible from the gross income arising and accruing to a foreign corporation from business done or capital invested in the United States.

Penalties.—Corporations refusing or neglecting to file returns within the time prescribed by law or rendering false or fraudulent returns shall be liable to a penalty of not exceeding \$10,000, and an additional tax of 50 per cent in case of neglect to file the return within the time prescribed by law, and 100 per cent in the case of a false or fraudulent return shall be added to the assessment.

Any officer of any corporation required by law to make, render, sign, or verify any return, who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required to be made shall be guilty of a misdemeanor, and shall be fined not exceeding \$2,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

SUPPLEMENTARY STATEMENT.

The following information must be furnished by every corporation, joint-stock company, or association, without which the return will not be accepted as complete. The items herein relate to the items listed above and bear corresponding numbers, and the totals must agree with the totals set out in the above return.

1. PAID-UP CAPITAL STOCK:

Unissued or treasury stock should not be included in this item, but only such stock as has been actually issued and is outstanding at the close of the year and for which payment has been received. Where the stock issued is payable in installments or assessments, only so much of it as has been actually paid in upon such installments or assessments should be reported.

In case no stock is issued there should be reported the amount of capital actually employed in the business and property of the corporation at the close of the year.

(a) Paid-up "common stock"	\$.....				
(b) Paid-up "preferred stock".....					
Total paid-up stock.....	\$.....				
or (c) Capital employed in business.....	\$.....				

2. INDEBTEDNESS:

All interest-bearing indebtedness, for the payment of which the corporation or its property is bound, should be reported below. In the case of banking corporations and like financial institutions deposits should not be reported as indebtedness. Indebtedness wholly secured by collateral, the subject of sale in the ordinary business of the corporation, should be reported here, but such indebtedness must not be entered under item 2 above nor be considered in determining the amount of interest deductible under item 6 (a).

Character of Obligation	Rate of Interest	Principal			
		\$			
.....
.....
.....
Total indebtedness.....	\$.....

3. GROSS INCOME:

All manufacturing, mercantile, and other corporations which determine their annual gain or loss by inventory are required to state the same in the form indicated below. If the annual income or loss is determined otherwise, the methods employed must be stated in the space provided.

The profit or income to be returned in the event of the sale of capital assets should be determined upon the basis of the difference between the cost and selling price of such assets. If the assets were acquired prior to January 1, 1909, the profit resulting from their sale may be prorated, in which case the amount apportioned to the years subsequent to January 1, 1909, will be included as income of the year in which sold.

(a) From Operations: Per inventory—

Sales during year.....	\$.....				
Stock on hand at close of year.....					
Total.....		\$.....			
Purchases during year.....	\$.....				
Stock on hand at beginning of year.....					
Total.....		\$.....			
Total gain or loss [3 (a), first page].....		\$.....			

In the case of manufacturing corporations "Purchases during the year" will include so much of the cost of goods, finished or unfinished, sold or unsold, as has not been separately deducted under any item of the return.

Overhead charges should not be included in inventory (see Item 4).

(If inventory shows loss, make entry in red ink or strike out gain.)

FEDERAL INCOME TAX

If inventory is not used, state below method of determining gain or loss from operations:

.....
.....
.....

(b) *From Rentals:* Rentals to be reported as income will include all payments received in cash or its equivalent as rent on buildings or other property owned by the corporation making the return, as well as all royalties received.

(c) *From Interest:* Interest to be reported as income includes all interest received on bonds or securities owned by the corporation with the exception of interest on obligations of a State or political subdivision thereof or interest upon the obligations of the United States or its possessions, which latter interest for the purpose of information should be extended below:

UNITED STATES, STATE, AND OTHER OBLIGATIONS.

Name of Obligation	Amount of Principal	Rate	Amount of Interest Received
.....	\$.....		\$.....
.....			
.....			
.....			
Total.....	\$.....		\$.....

(d) *From Dividends Received:* Dividends received upon the stock of other corporations must be included in the gross income of the corporation receiving the same and are not deductible from gross income in ascertaining the net income upon which the tax is computed.

(e) *From Other Sources:* All other sources from which income has been received, and the amount thereof, should be itemized below:

.....	\$.....		
.....			
.....			
.....			
Total.....	\$.....		

DEDUCTIONS.

4. EXPENSES, GENERAL:

The items below should only include the ordinary and necessary expenses paid within the year in the maintenance and operation of the business and properties of the corporation, not including interest payments (which are to be reported under item 6 (a)), except interest paid on indebtedness wholly secured by collateral the subject of sale in the ordinary business of the corporation, which interest may be reported under this item as an expense.

All expenses for material, labor, fuel, and other items entering into the cost of the goods produced, sold, or inventoried are deductible under this head as expense, provided such items have not been considered in determining the income derived from operations under item 3 (a), Inventory.

Expenditures for incidental repairs which do not add to the value of the property are deductible as expenses, but expenditures for additions and betterments which add to the value of the property are not deductible under this or any other item of the return. Expenditures for renewals and replacements are not, as such, deductible as expenses, but should be charged to depreciation reserve account.

Salaries of officers in order to constitute an allowable deduction must be reasonable compensation for the services rendered and must not be based upon the stock holdings nor comprehend any compensation for capital invested in the business.

Payments in lieu of rent should be reported separately under item 4 (b).

(a) 1. Labor, wages, commissions, etc.....	\$.....				
2. Fuel, light, power, etc.....					
3. Rentals (ordinary).....					
4. Repairs, ordinary and incidental.....					
5. Interest on indebtedness wholly secured by collateral the subject of sale, etc.....					
6. Salaries of officers.....					
7. Other expenditures—Classify					
Total expenses.....	\$.....				

4. (a) 8. Names of officers and employees to whom salaries of \$3,000 or more were paid during the year and amount paid to each. (If the space below is not adequate, a list marked "Item 4 (a)" containing this information should be attached to this form.)

Name	Amount
.....	\$.....
.....	\$.....
.....	\$.....
Total.....	\$.....

(b) *Payments in Lieu of Rent:* This item should include all royalties, as well as interest paid in lieu of rent on mortgages secured by property which the corporation occupies but which it does not own and in which it has no equity. See Note 6 (a).

5. (a) LOSSES:

Losses deductible under this item must be distinguished from depreciation or allowances for wear and tear, exhaustion, or obsolescence of property. The losses must be absolute, complete, actually sustained during the year, and charged off on the books of the corporation, and if the loss results from the sale of assets acquired prior to January 1, 1909, such loss shall be prorated and the amount apportioned to the years subsequent to January 1, 1909, may be deducted under this item.

Losses compensated by insurance or otherwise are not deductible.

Kind of Asset	Original Amount	Date Charged Off	Amount Charged Off
.....	\$.....	\$.....
.....
.....
Total.....	\$.....		

When were the deducted losses ascertained to be such?.....
How were they so ascertained?.....

(b) *Depreciation*: The amount deductible on account of depreciation is an amount which fairly measures the deterioration during the year in the value of physical property by reason of use, wear and tear, and such amount should be determined upon the basis of the cost of the property and the probable number of years constituting its life. Stocks, bonds, and like securities are not subject to wear and tear within the meaning of the law, and any *shrinkage* in their value due to fluctuations in the market is not deductible either as depreciation or loss.

Depreciation computed on total invoice value of merchandise in stock is not an allowable deduction. However, the extent of shrinkage in value below invoice cost of certain articles of merchandise in stock, determined upon the individual articles affected, may be taken and should be reflected in the value of merchandise inventory shown in the supplementary statement 3 (a).

Kind of Property	Its Cost	Probable Life After Acquisition	Amount of Depreciation	
			This Year	Previous Years
-----	\$.....	-----	\$.....	\$.....

Totals..	\$.....	-----	\$.....	\$.....

If buildings, state kind of construction.

(c) Depletion applies to the wasting of natural deposits and contemplates a deduction to return to the corporation the cost of or capital invested in such deposits, provided such deduction must not exceed 5 per cent of the gross value at the mine (or well) of the output of the year.

"DEPLETION."

*Kind of Property	†Its Cost	Gross Value at Mine of Output for Year	Amount of Depletion	
			This Year	All Years to Date
-----	\$.....	\$.....	\$.....	\$.....

*Coal, iron ore, copper, oil, or gas.

†Cost to include only initial purchase price plus all carrying charges not deducted from gross income for purpose of special excise and income tax.

6. (a) INTEREST DEDUCTIBLE:

The amount of interest which may be deducted under this item is the amount actually accrued (due and payable) and paid within the year on an amount of bonded or other indebtedness not in excess of the paid-up capital stock outstanding at the close of the year plus one-half of the interest-bearing indebtedness also then outstanding. Where there is no capital stock the amount of interest deductible is the amount actually paid on an amount of indebtedness not in excess, at any time during the year, of the capital employed in the business at the close of the year.

Interest paid on mortgage indebtedness, assumed or unassumed, on property to which the corporation has taken or is taking title, or in which it has an equity, or in the acquirement of which the mortgage was considered a part of the purchase price, should be reported under this item, as such indebtedness is held to be the debt of the corporation.

Interest paid in lieu of rent on mortgage indebtedness secured by property which the corporation occupies, but does not own, or have an equity in, should be reported under item 4 (a). Such debt is the debt of the property and not of the corporation.

Interest paid on indebtedness wholly secured by collateral the subject of sale in the ordinary business of the corporation should be reported under item 4 (a).

INTEREST PAYMENTS ACTUALLY MADE DURING YEAR.

All forms of indebtedness upon which interest was paid should be listed here.

Name or Kind of Obligation	Amount of Principal					Rate of Interest	Amount of Interest Paid		
.....	\$.....	\$.....
.....
.....
Total.....	\$.....	\$.....

(b) *Interest Paid on Deposits:* Interest paid on deposits is a proper deduction from gross income under this item in case of banks and banking institutions only.

7. (a) TAXES—Federal and State:

(b) *TAXES—Foreign:* Taxes deductible under these items are such taxes *actually paid* within the year as are imposed by either the United States or any State or Territory thereof, or by the Govern-

ment of any foreign country, not including taxes for local benefits, nor taxes paid by corporations pursuant to covenants guaranteeing their bonds to be tax free.

A reserve for taxes, as such, is not deductible.

Banks paying taxes assessed on the value of their capital stock outstanding and in the hands of their stockholders cannot deduct the same. Such taxes are a liability of the stockholders, deductible from the dividends of such stockholders.

Where sufficient space is not provided for the entry of the information required in the "Supplementary statement," lists containing full information in the form indicated should be marked in accordance with the particular item and attached to this form.

INSTRUCTIONS TO CORPORATIONS WITH RESPECT TO MAKING RETURNS OF ANNUAL NET INCOME.

WASHINGTON, D. C., December 8, 1915.

The officers of corporations will please read carefully the following instructions, as well as those given on the return form (1031), before inserting the figures in either the return proper or the supplementary statement.

Returns must be filed by all corporations having existence during all or any part of the year, and, if made on the basis of a calendar year, must be filed on or before March 1; if on the basis of a fiscal, other than the calendar, year they must be filed on or before the last day of the 60-day period next following the close of the fiscal year.

Dissolved corporations, making return on the basis of a calendar year, will make final return covering the period from January 1 to date of dissolution. Dissolved corporations making return on the basis of a fiscal, other than the calendar, year will make a final return covering the period from the beginning of the fiscal year to the date of dissolution. Date of dissolution in either case must be noted on the face of the return in red ink.

New corporations organized during the year must make return covering the period from date of organization to December 31, unless the collector is given written notice, not less than 30 days prior to March 1, designating the last day of some month, other than December, as the closing date of the fiscal year. In this event a return will be made within 60 days after the close of the fiscal year designated, provided the period from date of organization to the closing date of the fiscal year does not exceed 12 months. Further instructions will be given by the collector.

Address in the heading must show where books are kept from which return is prepared, and the return will be filed in the district in which this address shows the books to be kept.

SUPPLEMENTARY STATEMENT MUST BE PREPARED FIRST AND THE TOTALS CARRIED TO THE PROPER SPACES BEARING SIMILAR NUMBER AND LETTER IN THE RETURN PROPER.

Paid-up capital stock, to be entered under item 1, should represent total par value of paid-up stock issued, both common and preferred, outstanding at the close of the period covered by the return. It is immaterial whether stock is paid for in cash, promissory notes, or other assets. When stock is assessable on account of deferred payments or is payable in installments, the amount actually paid on such shares will constitute the actual paid-up capital stock of the corporation, and the amount so actually paid in will be entered under this item.

Indebtedness, to be entered under item 2, should embrace all outstanding interest-bearing indebtedness for which the corporation has acknowledged liability, in the form of mortgage, note, bond, or other paper, said paper bearing interest, not including indebtedness wholly secured by collateral the subject of sale in the ordinary business of the corporation. Such latter indebtedness should be included under item 2 of the supplementary statement, at the lower margin of the return proper, and should be properly explained.

GROSS INCOME.

Banks and other financial institutions will include as Gross Income the total revenue, gains, or profits from all sources, as shown by the entries on the books of account.

Manufacturing corporations will ascertain Gross Income from Operations through the inventory computation (3a) on the back of the form. In this computation "Sales" should represent the entire sales during the year, whether for cash or otherwise. "Purchases" should include all purchases of raw material, supplies, etc., during the same period. "Purchases" will not, however, include any expenses or other items claimed as deductions under the headings 4a to 7b, inclusive. (Purchases of equipment, office furniture, fixtures, and so forth, are considered to be capital investments and are not subject to deduction as purchases or expenses.) Such items are to be charged to capital account and are susceptible to depreciation charge, which may be taken in the return if such account is set up on the books of the corporation and so entered on the books as to constitute a liability against the assets of the company. "Inven-

tories" should be as of the beginning and close of the period covered by the return and will embrace finished and unfinished products, raw materials, supplies, etc.

Mercantile corporations will ascertain "Gross Income from Operations" in the same manner as manufacturing corporations, except that inventories will embrace merchandise or stock in trade, or on hand, at the beginning and close of the period, as well as the amount of the gross sales and purchases during the period.

Other corporations will include as gross income the total revenue derived from the operation and management of the business and property of the corporation, together with all amounts of income, gains, or profits arising or accruing from all other sources, as shown by the books of account.

DEDUCTIONS.

Expenses, general, should be segregated and entered under the proper heading of the schedule at the lower left-hand corner of the back of the sheet. The schedule will not, however, include any items specifically called for under items 4b to 7b, inclusive, nor will the schedule include any items that have been taken into consideration in the inventory computation (3a) when ascertaining the "Gross Income from Operations."

Line 1 should embrace the expenses of nonproductive, supervisory, executive and selling labor, commissions, etc., not including salaries paid to officers.

Line 2 should include light, heat, and power expense.

Line 3 should cover ordinary rentals.

Line 4 may include incidental repairs, which do not add to the value or appreciably prolong the life of the property, or which do not constitute additions and betterments, the latter being properly chargeable to property account.

Line 5 should not be used unless the corporation is paying interest on indebtedness wholly secured by collateral, which particular collateral securing the debt is the subject of sale in the ordinary business of the corporation.

Line 6 should show total salaries paid to officers, including those stated in detail under item (4 (a) 8, which item, in detail, is required for information only.

Line 7, "Other expenditures," may include such expenses as are not accounted for in any of the above items, and should be classified under three or four general heads, as indicated.

Losses, to be deductible, must be definite, absolute, actually sustained during the period and charged off on the books, and will not include shrinkage in the value of securities or other assets. Appropriate explanation should be made in the space provided on the back

of the form of each loss for which deduction is claimed. Decrease in value of stock inventory is not a loss contemplated to be treated here, but will be taken into account in the inventory in the computation under 3 (a) of the supplementary statement. *Bad debts* should be listed and date of charging off stated as to each. If the space provided is not sufficient to make such list, use additional paper and securely attach same to the return. Bad debts are not deductible as a loss unless at some time, either through inventory or otherwise, they shall have been taken up as income.

Depreciation, deducted under item 5 (b), should be appropriately explained. If depreciation is claimed on more than one class of property at different rates, the cost of each separate class will be stated, with its corresponding probable life, the amount charged off this and prior years. The amount deducted must appear on the books of the corporation as a liability against the assets, and must be reflected in the annual "Balance Sheet." Depreciation on merchandise or stock in trade must not be deducted here, but should be taken into consideration through the inventory at the close of the year in computing 3 (a). Deduction as depreciation cannot be taken for such wear and tear as has been made good by repairs, deducted in item 4 (a). The depreciation deduction cannot be cumulative, but will consist of an amount measuring the loss due to use, wear and tear occurring during the period for which the return is made.

Interest deductions should include only the interest actually accrued and paid during the period, and cannot exceed the amount set out in the instructions given under item 6 (a) of the supplementary statement. Appropriate explanation must be made in the space provided therefor. If space is not sufficient, additional paper should be used and attached to return. Interest cannot be deducted in excess of the amount actually paid, at the contract rate, upon a principal measured by the sum of the paid-up capital stock plus one-half of the interest-bearing indebtedness at the close of the period.

W. H. OSBORN,
Commissioner of Internal Revenue.

(Form 1040 (Revised).)

RETURN OF ANNUAL NET INCOME OF INDIVIDUALS.

(As provided by Act of Congress, approved October 3, 1913.)

INCOME RECEIVED OR ACCRUED DURING THE YEAR ENDED DEO. 31, 191.....

Filed by (or for)..... of
(Street and number.)

(Post-office address.) (State.)

COMPLETE ANSWERS SHOULD BE GIVEN TO THE FOLLOWING QUESTIONS.

Did you render a return of income for the preceding year?.....

If so, in what Internal Revenue District was it filed?.....

Were you *single* or *married* with wife or husband living with you
on December 31 of the year for which this return is rendered?
.....

If married, give full name of wife or husband.....

Has your wife or husband income from sources independent of
your own?.....Have you included your wife's or husband's income in this return?
.....

FEDERAL INCOME TAX

	Millions	Thousands	Hundreds	Cents
1. Gross Income (brought from line 28).....	\$ .....	.....	.....	.....
2. General Deductions (brought from line 36).....	\$ .....	.....	.....	.....
3. Net Income.....	\$ .....	.....	.....	.....
Specific deductions and exemptions allowed in computing normal tax of 1 per cent.				
	Millions	Thousands	Hundreds	Cents
4. Dividends (brought from line 27).....	\$ .....	.....	.....	.....
5. Income on which the normal tax has been paid or is to be paid at the source (brought from line 22, Column A).....	\$ .....	.....	.....	.....
6. Specific exemption of \$3,000 or \$4,000, as the case may be.....	\$ .....	.....	.....	.....
Norm.—If separate return is made by husband or wife and exemption is prorated, state amount claimed by:				
	Husband .....	.....	.....	.....
	Wife .....	.....	.....	.....
7. Total deductions and exemptions (Items 4, 5, and 6).....	\$ .....	.....	.....	.....
8. Taxable Income on which the normal tax of 1 per cent is to be calculated.....	\$ .....	.....	.....	.....

NOTE.—When the net income shown above on line 3 exceeds \$20,000 the additional tax thereon must be calculated as per schedule below.

FORMS AND INSTRUCTIONS

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Income	TAX					
	Millions	Thousands	Hundreds	Cents	Millions	Thousands
One per cent on amount over \$20,000 and not exceeding \$40,000.....	\$.	.	.	.	\$.	.
Two per cent on amount over \$50,000 and not exceeding \$75,000.....	\$.	.	.	.	\$.	.
Three per cent on amount over \$75,000 and not exceeding \$100,000.....	\$.	.	.	.	\$.	.
Four per cent on amount over \$100,000 and not exceeding \$250,000.....	\$.	.	.	.	\$.	.
Five per cent on amount over \$250,000 and not exceeding \$400,000.....	\$.	.	.	.	\$.	.
Six per cent on amount over \$400,000.....	\$.	.	.	.	\$.	.
9. Total additional or super tax.....					\$.	.
10. Total normal tax (1 per cent of amount entered on line 8).....					\$.	.
11. Total tax to be paid.....					\$.	.

FEDERAL INCOME TAX

GROSS INCOME.

This statement must show in the proper spaces the ENTIRE AMOUNT of gains, profits, and income received by or accrued to the individual from all sources during the year specified on page 1, EXCEPT income derived from the obligations of the United States or any of its possessions, or of any State or political subdivision thereof, including district drainage bonds; and amounts paid by a State or any political subdivision thereof for services rendered as an officer or employee.

Description of Income	A			B		
	Income on which the tax has been paid or is to be paid at the source.			Income on which the tax has NOT been paid or is not to be paid at the source.		
TOTAL AMOUNT DRAWN FROM—						
12. Salaries and wages.....	\$.	Millions	Thousands	Hundreds	Cents	
Wife's income.....						
13. Professions and vocations.....						
Wife's income.....						
14. Businesses, trade, commerce, or sales, or dealings in property, whether real or personal.....						
Wife's income.....						

15. Rents.....	Wife's income.
16. Interest on notes, mortgages, bank deposits, and securities other than reported on lines 17 and 20.....	Wife's income.
17. Interest on bonds, mortgages or deeds of trust, or other similar obligations of domestic corporations, joint-stock companies or associations, and insurance companies.....	Wife's income.
18. Fiduciaries* (excepting dividends from domestic corporations, which must be included as indicated in line 26 below).....	Wife's income.
19. Partnership gains and profits, whether distributed or not. (<i>Net</i> gains or profits must be reported here).....	Wife's income.
20. Interest upon bonds issued in foreign countries and upon <i>foreign mortgages</i> or like obligations (not payable in the United States), and also dividends upon the stock or interest upon the obligations of foreign corporations, associations, and insurance companies engaged in business in foreign countries.....	Wife's income.

Description of Income	A			B			
	Income on which the tax has been paid or is to be paid at the source.			Income on which the tax has NOT been paid or is not to be paid at the source.			
	Millions	Thousands	Hundreds	Millions	Thousands	Hundreds	Cents
TOTAL AMOUNT DERIVED FROM—							
21. Royalties from mines, oil wells, patents, franchises, or other legalised privileges.							
Wife's income.....							
22. Other sources not enumerated above.....							
Wife's income.....							
Note.—State here sources from which income entered on line 22 is received and amount received from each.							
23. Total (Note.—Enter total of Column A on line 5.)							\$

Aggregate Totals or Columns A and B.	
24.	Dividends on stock or from the net earnings of domestic corporations, joint-stock companies, associations, or insurance companies subject to like tax.
25.	Dividends received through fiduciaries (see line 18).....
27.	Total Dividends (to be entered on line 4).....
28.	Total Gross Income (to be entered on line 1).....

*There should be included under this item all income received from guardians, trustees, executors, administrators, agents, receivers, conservators or other persons acting in a fiduciary capacity.

FEDERAL INCOME TAX

GENERAL DEDUCTIONS.

NOTE.—Claims for deductions cannot be allowed unless the information required below is clearly set forth.

	Millions	Thousands	Hundreds	Cents
29. The amount of necessary expenses actually paid within the calendar year, for which the return is made, in carrying on any individual business. There must not be included under this head personal, living, or family expenses, business expenses of partnerships, or cost of merchandise. Amounts paid for permanent improvement or betterment of property are not proper expense deductions.....	\$			
Wife's deduction.....				
NOTE.—State on the following lines the principal businesses in which the above expenses were incurred.				
.....				
.....				
.....				
30. All interest paid within the year on personal indebtedness of taxpayer.....				
Wife's deduction.....				
31. All National, State, county, school, and municipal taxes paid within the year (not including those assessed against local benefits).....				
Wife's deduction.....				
32. Losses actually sustained during the year incurred in trade or arising from fires, storms, or shipwreck, and not compensated by insurance or otherwise.....				
Wife's deduction.....				
NOTE.—State (a) of what the loss consisted, (b) when it was actually sustained, and (c) how it was determined to be a loss.				
.....				
.....				
.....				

33. Debts past due which have been actually ascertained to be worthless and which have been charged off within the year.....	\$.						
Wife's deduction.....							
Note.—State (a) of what the debts consisted, (b) when they were created, (c) when they became due, and (d) how they were actually determined to be worthless.							
34. Amount representing a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in business. No deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which a deduction is claimed elsewhere in this return.....							
Wife's deduction.....							
Note.—State (a) what the property was on which depreciation is taken (if buildings, state when erected, of what material constructed, and value of same, as of January 1 of the calendar year for which this return is rendered), and (b) what percentage of depreciation is claimed.							
35. Amount allowed to cover depletion in case of mines and oil wells, not to exceed 5 per cent of the gross value at the mine or well of the output for the calendar year for which this return is rendered.....							
Wife's deduction.....							
Note.—State (a) cost of mine or well, (b) gross value at the mine or well of the output for the calendar year for which this return is rendered, and (c) what percentage of depletion is claimed.							
36. TOTAL "GENERAL DEDUCTIONS" (to be entered on line 2).....	\$.						

Note.—If space is insufficient for answering any questions, attach a supplemental sheet to this return.

**AFFIDAVIT TO BE EXECUTED BY INDIVIDUAL MAKING
HIS OWN RETURN.**

I swear (or affirm) that the foregoing return, to the best of my knowledge and belief, contains a true and complete statement of all taxable gains, profits, and income received by or accrued to me during the year for which the return is made, and that I am entitled to all the deductions and exemptions entered or claimed therein under the Federal Income Tax Law of October 3, 1913.

(Signature of individual)

Sworn to and subscribed before me this day of 191.....

[SEAL.]

(Official capacity.)

**AFFIDAVIT TO BE EXECUTED BY DULY AUTHORIZED AGENT MAKING
RETURN FOR INDIVIDUAL**

I swear (or affirm) that I have sufficient knowledge of the affairs and property of.....to enable me to make a full and complete return of the taxable income thereof, and that the foregoing return, to the best of my knowledge and belief, contains a true and complete statement of all the taxable gains, profits, and income received by or accrued to said individual during the year for which the return is made, and that the said individual is entitled under the Federal Income Tax Law of October 3, 1913, to all the deductions and exemptions entered or claimed therein, and that I am authorized to make this return for the following reasons:

(Signature of agent.)

(Post-office address of agent.)

Sworn to and subscribed before me this day of 191.....

[SEAL.]

(Official capacity.)

INSTRUCTIONS.

1. This return shall be made by every citizen of the United States, whether residing at home or abroad, and by every person residing in the United States, though not a citizen thereof, having a *net income* of \$3,000, or over, for the taxable year.

2. This return shall be made by every *nonresident alien* deriving any net income from property owned and business, trade, or profession carried on in the United States by him. No specific exemption is allowed nonresident aliens.

3. When an individual by reason of minority, sickness, or other disability, or absence from the United States, is unable to make his own return, it may be made for him by his *duly authorized representative*.

4. This return should be filed with the Collector of Internal Revenue for the district in which the individual resides. In case the person resides in a foreign country, then with the collector for the district in which his principal business is carried on in the United States.

5. When the return is not filed within the required time by reason of sickness or absence of the individual, an extension of time, not exceeding 30 days from March 1, within which to file such return *may* be granted by the collector, *provided* a written application therefor is made by the individual within the period for which such extension is desired.

6. This return, properly filled out, must be made under oath or affirmation. Affidavits may be made before any officer *authorized by law* to administer oaths.

7. An unmarried individual or married individual not living with husband or wife shall be allowed an exemption of \$3,000. When husband and wife live together they shall be allowed jointly a total exemption of only \$4,000 on their aggregate income. Either husband or wife may make, sign, and verify a return of their joint income. Where husband and wife have separate incomes they make a joint return of such separate income, both subscribing to the return, or they may make separate returns of their respective incomes, but in no case shall they claim or be allowed more than \$4,000 exemption on their aggregate incomes.

8. Amounts charged on line 29 for restoring property or making good the exhaustion thereof from its use in business, together with the amount claimed for depreciation on line 34, must not exceed the deterioration of the property in one year.

PART VII

STATISTICS

(See Frontispiece Chart)

**Receipts by States from all sources, receipts by years all
sources, Corporation and Personal Income Tax figures tabu-
lated.**

STATISTICS

RECEIPTS BY STATES AND TERRITORIES DURING THE LAST FISCAL YEAR.

Aggregate collection of internal revenue, by States and Territories of the United States and the Philippine Islands, during the fiscal year ended June 30, 1915.

State, Territory, etc.	Aggregate Collections	State, Territory, etc.	Aggregate Collections
Alabama.....	\$ 661,217.64	Nevada.....	\$ 171,095.06
Alaska.....	31,699.46	New Hampshire.....	783,234.45
Arizona.....	208,912.05	New Jersey.....	15,358,014.08
Arkansas.....	394,536.43	New Mexico.....	142,583.08
California.....	13,129,026.52	New York.....	76,271,908.24
Colorado.....	1,509,773.16	North Carolina.....	13,651,937.38
Connecticut.....	3,222,249.87	North Dakota.....	261,610.05
Delaware.....	722,298.66	Ohio.....	27,424,204.20
District of Columbia.....	1,438,628.75	Oklahoma.....	729,323.56
Florida.....	1,562,425.02	Oregon.....	1,160,496.09
Georgia.....	1,041,349.35	Pennsylvania.....	37,811,791.32
Hawaii.....	434,582.82	Porto Rico.....	624,793.60
Idaho.....	208,004.69	Rhode Island.....	1,797,903.53
Illinois.....	56,242,546.12	South Carolina.....	453,396.66
Indiana.....	25,761,193.45	South Dakota.....	359,551.25
Iowa.....	2,621,308.38	Tennessee.....	2,375,418.27
Kansas.....	1,101,888.00	Texas.....	2,841,336.60
Kentucky.....	33,653,348.21	Utah.....	576,720.59
Louisiana.....	8,604,940.00	Vermont.....	276,446.50
Maine.....	718,084.03	Virginia.....	8,642,358.70
Maryland.....	7,766,490.55	Washington.....	2,329,311.84
Massachusetts.....	12,094,625.11	West Virginia.....	1,969,473.72
Michigan.....	11,085,043.07	Wisconsin.....	11,390,243.87
Minnesota.....	5,195,287.80	Wyoming.....	133,509.79
Mississippi.....	223,965.84	Philippine Islands.....	193,302.08
Missouri.....	14,874,345.68	Alaska (special fund) ¹	11,065.06
Montana.....	752,908.96		
Nebraska.....	2,878,265.06	Total.....	415,681,023.86

¹Income tax collected on railroads in Alaska.

NOTE.—Alabama and Mississippi comprise the district of Alabama; Colorado and Wyoming, the district of Colorado; Connecticut and Rhode Island, the district of Connecticut; Maryland, Delaware, District of Columbia, and the counties of Accomac and Northampton, Va., the district of Maryland; Montana, Idaho, and Utah, the district of Montana; New Hampshire, Maine, and Vermont, the district of New Hampshire; New Mexico and Arizona, the district of New Mexico; North Dakota and South Dakota, the district of North and South Dakota; Washington and Alaska, the district of Washington; and Nevada forms a part of the First district of California.

The collections credited to Porto Rico were returned from the following districts, viz.:

First district of New York.....	\$ 114,048.65
Second district of New York.....	510,744.95
Total.....	624,793.60

Statement showing the total internal-revenue receipts in the United States for each fiscal year from September 1, 1863, to June 30, 1915

1863	\$41,003,192.93	1891	\$146,035,415.97
1864	116,965,578.36	1892	153,857,544.35
1865	210,855,864.53	1893	161,004,989.67
1866	310,130,445.13	1894	147,168,449.70
1867	245,064,938.43	1895	143,246,077.75
1868	190,374,925.59	1896	146,830,615.66
1869	159,124,126.86	1897	146,619,593.47
1870	184,302,828.34	1898	170,866,819.36
1871	143,198,322.10	1899	273,484,573.44
1872	130,890,096.90	1900	295,316,107.57
1873	113,504,012.80	1901	306,871,669.42
1874	102,191,016.98	1902	271,867,990.25
1875	110,071,515.00	1903	230,740,925.32
1876	116,768,096.22	1904	232,903,781.06
1877	118,549,230.26	1905	234,187,976.37
1878	110,654,165.37	1906	249,102,738.00
1879	112,449,621.38	1907	269,664,022.85
1880	123,981,916.10	1908	251,665,950.04
1881	135,220,612.30	1909	246,212,719.23
1882	146,528,273.72	1910	289,957,220.16
1883	144,553,344.36	1911	322,526,299.73
1884	121,590,039.83	1912	321,615,894.69
1885	112,421,121.07	1913	344,424,453.85
1886	116,902,869.44	1914	380,008,893.96
1887	118,837,301.06	1915	415,681,023.86
1888	124,326,475.32		
1889	130,894,434.20	Total	10,106,806,108.16
1890	142,694,006.57		

CORPORATION AND INDIVIDUAL INCOME TAX.

Supplemental statement showing by States and Territories the receipts under act of Oct. 3, 1913, during the fiscal year ended June 30, 1915.

States, Territories, etc.	Corporation Income Tax	Individual Income Tax	States, Territories, etc.	Corporation Income Tax	Individual Income Tax
Alabama.....	\$ 177,127.39	\$ 84,633.40	Nebraska.....	\$ 232,638.07	\$ 128,735.25
Alaska.....	4,412.49	4,556.11	Nevada.....	51,843.57	31,246.39
Arizona.....	74,935.76	51,624.12	New Hampshire.....	96,944.33	71,023.29
Arkansas.....	89,149.52	38,177.09	New Jersey.....	1,395,098.46	1,278,169.92
California.....	1,620,250.50	1,240,501.03	New Mexico.....	37,240.58	16,278.53
Colorado.....	333,683.28	226,735.74	New York.....	10,221,206.65	17,417,537.60
Connecticut.....	634,804.71	648,891.26	North Carol.....	257,825.38	123,553.96
Delaware.....	143,955.10	138,835.94	North Dakota.....	71,340.70	26,155.98
Dist. of Col.....	134,767.04	378,673.72	Ohio.....	2,538,058.60	1,489,401.11
Florida.....	108,141.60	121,368.22	Oklahoma.....	273,203.26	133,685.76
Georgia.....	320,617.52	119,983.61	Oregon.....	184,435.06	121,305.87
Hawaii.....	198,610.97	45,211.04	Pennsylvania.....	4,725,139.26	4,642,557.08
Idaho.....	71,202.56	24,567.89	Rhode Island.....	278,658.26	432,453.37
Illinois.....	2,983,527.31	2,670,630.34	South Carol.....	118,032.23	43,369.72
Indiana.....	644,147.38	345,653.92	South Dakota.....	58,966.15	15,071.31
Iowa.....	469,173.05	264,315.64	Tennessee.....	244,305.05	165,904.45
Kansas.....	460,043.69	94,975.59	Texas.....	622,646.16	425,631.57
Kentucky.....	467,638.45	163,191.46	Utah.....	216,234.83	44,975.43
Louisiana.....	316,364.74	209,813.20	Vermont.....	53,645.86	141,428.77
Maine.....	325,168.99	150,094.51	Virginia.....	430,379.24	197,559.27
Maryland.....	385,539.58	636,340.03	Washington.....	316,322.33	198,579.39
Massachusetts.....	1,853,057.41	2,683,084.53	West Virginia.....	357,614.85	139,188.47
Michigan.....	1,379,478.99	1,533,829.14	Wisconsin.....	602,876.30	272,476.09
Minnesota.....	1,202,379.50	581,049.32	Wyoming.....	54,146.91	12,248.68
Mississippi.....	73,516.09	34,664.57	Total	39,144,531.71	41,046,162.09
Missouri.....	1,099,384.38	934,139.02			
Montana.....	134,651.53	51,184.39			

NOTE.—The receipts during the fiscal year ended June 30, 1914, were as follows:

Corporation excise and income taxes.....	943,127,730.80
Individual income tax (10 months).....	28,253,534.26
Total.....	71,331,274.74

FEDERAL INCOME TAX

CORPORATION INCOME TAX DIVISION.

Statement showing number of returns received, number of returns showing tax liability, and amount of tax assessed on the basis of returns filed pursuant to the requirements of the acts of Aug. 6, 1918, and Oct. 3, 1918, by districts, during the year ended June 30, 1918.

District	Returns Received	Taxable Returns	Corporation Income Tax	Special Excise Tax	50 Per Cent and 100 Per Cent Additional Tax	Total
Alabama.....	3,104	2,591	\$ 196,751.55	\$ 32,995.44	\$ 5,267.53	\$ 235,014.52
Arkansas.....	2,463	1,570	83,073.47	3,416.14	406.28	86,895.89
First California.....	12,307	6,040	1,178,998.51	69,973.47	827.46	1,249,799.44
Sixth California.....	8,102	3,091	432,701.22	31,061.58	8,750.53	467,513.31
Colorado.....	9,114	3,453	389,391.96	19,243.20	1,476.85	410,112.01
Connecticut.....	3,416	3,229	819,245.46	104,117.80	663.94	924,017.20
Florida.....	2,093	1,412	103,217.88	3,015.79	1,192.61	107,433.28
Georgia.....	4,763	3,009	288,004.16	28,462.02	3,327.33	319,793.51
Hawaii.....	564	379	198,482.62		172.45	198,655.07
First Illinois.....	16,157	7,644	3,222,951.30	35,291.26	19,338.54	3,277,351.10
Fifth Illinois.....	1,159	640	129,103.32	11,326.54	365.31	141,295.10
Eighth Illinois.....	2,788	1,818	130,415.97	14,628.49	193.82	145,238.28
Thirteenth Illinois.....	2,156	1,250	95,305.11	2,046.57	766.80	98,118.28
Sixth Indiana.....	5,399	3,497	492,981.35	28,661.68	2,205.65	523,848.68
Seventh Indiana.....	2,449	1,521	117,805.42	818.37	1,039.62	119,663.41
Third Iowa.....	8,422	5,342	403,370.96	33,273.31	3,333.49	440,927.76
Kansas.....	4,146	3,070	232,698.78	1,415.01	511.69	234,625.48
Second Kentucky.....	1,251	754	31,180.48	6,718.36	333.54	38,232.97
Fifth Kentucky.....	1,917	1,151	235,057.07	21,568.20	23.50	256,648.86
Sixth Kentucky.....	477	298	20,706.59	3,630.00	8.24	24,344.83
Seventh Kentucky.....	899	515	37,612.42	1,273.01	421.68	39,367.11
Eighth Kentucky.....	671	396	19,285.27		315.29	19,600.56
Louisiana.....	3,772	2,014	206,749.57	63,608.46	2,446.02	362,804.05
Maryland.....	5,781	3,058	616,311.23	17,809.96	802.08	634,923.87
Third Massachusetts.....	7,017	6,325	1,674,496.16	92,781.71	6,455.83	1,773,737.70
First Michigan.....	5,754	3,411	1,023,066.26	21,583.44	2,327.42	1,047,007.12
Fourth Michigan.....	3,326	1,813	257,097.41	12,815.20	526.65	270,439.26
Minnesota.....	8,328	5,424	1,199,714.78	31,003.90	2,718.27	1,233,436.95
First Missouri.....	8,004	4,187	705,345.06	19,999.52	8,314.93	728,659.50
Sixth Missouri.....	5,465	3,583	345,195.61	17,058.15	1,421.75	363,675.51
Montana.....	3,037	3,724	443,910.76	22,136.34	6,337.70	472,378.80
Nebraska.....	4,184	3,084	224,324.68	1,215.90	126.98	225,658.56
New Hampshire.....	4,577	3,058	308,089.11	13,750.48	4,652.31	416,491.90
First New Jersey.....	2,516	1,326	240,393.91	4,472.61	705.73	245,572.25
Fifth New Jersey.....	4,319	3,626	1,049,928.97	100,342.73	8,848.87	1,163,120.57
New Mexico.....	1,941	854	130,444.51	1,921.41	456.05	132,821.97
First New York.....	5,331	2,608	425,083.80	9,902.67	938.89	435,935.36
Second New York.....	12,183	5,859	6,342,964.89	196,078.01	3,316.08	6,542,358.98
Third New York.....	4,375	4,310	1,587,441.64	37,528.01	8,820.27	1,633,787.92
Fourteenth New York.....	5,076	2,459	467,270.56	59,664.17	851.34	527,786.07
Twenty-first New York.....	3,398	1,982	290,942.34	2,861.56	544.43	294,348.33
Twenty-eighth New York.....	6,280	3,251	639,347.22	3,131.35	620.42	643,098.99
Fourth North Carolina.....	2,277	1,590	76,257.22	7,729.97	464.81	84,452.00
Fifth North Carolina.....	2,322	1,407	133,129.11	24,280.26	755.54	158,164.91
North and South Dakota.....	4,458	3,182	124,371.01	2,438.46	2,297.90	129,107.37
First Ohio.....	3,410	2,061	472,763.33	30,885.76	878.41	504,527.50
Tenth Ohio.....	3,057	1,953	371,252.03	4,197.77	1,611.86	377,061.66
Eleventh Ohio.....	3,171	1,851	197,150.20	7,345.77	7,773.23	212,269.30
Eighteenth Ohio.....	6,346	4,290	1,095,438.13	57,553.63	735.88	1,153,727.64
Oklahoma.....	5,339	2,729	240,628.77	10,648.87	715.19	260,992.63
Oregon.....	4,854	2,973	146,410.08	29,663.29	604.73	176,705.10
First Pennsylvania.....	6,936	3,799	2,149,888.49	123,147.89	1,738.43	2,274,774.81
Ninth Pennsylvania.....	3,603	2,607	553,590.85	88,705.00	2,606.66	594,902.51
Twelfth Pennsylvania ¹	83	47	19,092.62	19,834.92	480.44	39,407.98
Twenty-third Pennsylvania.....	7,222	4,095	1,806,068.80	45,761.64	6,002.33	1,857,832.77
South Carolina.....	2,075	1,532	81,670.75	5,945.82	513.30	88,129.67
Tennessee.....	4,323	2,594	225,627.60	18,701.80	456.52	244,785.92
Third Texas.....	8,513	5,071	584,747.95	44,447.66	5,009.33	634,204.97
Second Virginia.....	2,896	1,531	262,316.09	23,465.51	1,274.08	287,055.68
Sixth Virginia.....	2,039	1,277	142,161.00	4,961.05	1,126.96	148,249.01
Washington.....	8,504	3,490	317,511.96	3,663.07	1,800.10	322,984.13
West Virginia.....	4,647	2,485	307,595.93	8,235.13	2,852.22	318,683.28
First Wisconsin.....	6,500	3,270	445,314.87	15,975.12	322.80	461,612.79
Second Wisconsin.....	4,459	2,645	136,891.35	14,381.58	231.44	151,484.37
Totals.....	209,445	174,205	37,106,395.47	1,743,074.06	137,482.73	38,966,952.38

¹Re-established May 1, 1915.

Statement showing number of corporation returns received, number of returns showing tax liability, and amount of tax assessed on the basis of returns filed pursuant to the requirements of the acts of Aug. 5, 1908, and Oct. 8, 1913, by States, during the year ended June 30, 1915.

States and Territories	Returns Received	Taxable Returns	Corporation Income Tax	Special Excise Tax	50 Per Cent and 100 Per Cent Additional Tax	Total
Alabama.....	1,912	1,576	\$ 146,923.54	\$ 21,061.93	\$ 2,919.32	\$ 170,904.79
Alaska.....	157	82	6,268.35		16.63	6,274.98
Arizona.....	1,026	346	67,325.98	1,921.41	262.25	69,500.64
Arkansas.....	2,363	1,570	83,073.47	83,416.14	406.28	86,896.89
California.....	19,939	8,816	1,571,865.97	90,475.06	4,568.11	1,666,409.14
Colorado.....	7,803	2,842	337,859.55	18,288.98	1,147.27	357,295.80
Connecticut.....	2,067	2,268	562,760.12	81,486.93	461.44	644,708.49
Delaware.....	843	448	117,693.84		5.49	277.94
District of Columbia.....	966	564	123,856.73	1,940.82		125,835.92
Florida.....	2,063	1,412	103,217.88	3,015.79	1,199.61	107,433.28
Georgia.....	4,763	3,009	288,004.16	28,462.02	3,327.33	319,793.51
Hawaii.....	564	370	198,482.03		172.45	198,655.07
Idaho.....	168	878	87,164.78	3,047.23	5,691.75	95,803.76
Illinois.....	22,060	11,352	3,577,775.70	63,792.86	20,664.27	3,602,232.83
Indiana.....	7,548	5,018	610,786.77	20,480.06	3,245.27	643,512.09
Iowa.....	8,142	5,342	403,370.98	33,273.31	3,383.49	440,027.76
Kansas.....	4,346	3,070	232,668.78	1,415.01	511.69	234,625.48
Kentucky.....	5,215	3,114	243,841.83	33,190.25	1,102.25	378,134.33
Louisiana.....	3,772	2,014	296,749.57	63,608.46	2,446.02	362,804.05
Maine.....	2,824	1,829	272,129.65	6,140.00	3,868.31	282,128.56
Maryland.....	8,228	2,016	372,923.65	15,863.05	480.71	389,268.01
Massachusetts.....	7,017	6,325	1,674,496.16	92,781.71	6,455.88	1,773,733.70
Michigan.....	9,160	5,224	1,280,193.67	34,398.64	2,854.07	1,317,446.38
Minnesota.....	8,228	5,424	1,199,714.78	31,003.90	2,718.27	1,233,434.96
Mississippi.....	1,192	1,015	49,828.01	11,933.51	2,348.21	64,109.73
Missouri.....	13,469	7,770	1,050,540.66	37,057.67	4,736.68	1,092,335.01
Montana.....	1,151	1,492	130,306.22	9,411.44	391.92	140,109.58
Nebraska.....	4,184	3,064	224,342.68	1,218.90	126.98	226,685.56
Nevada.....	270	315	39,833.76	10,559.97	9.88	50,403.61
New Hampshire.....	940	666	74,535.86	3,175.12	491.20	77,720.18
New Jersey.....	6,835	4,952	1,290,322.88	113,815.34	4,554.60	1,408,692.82
New Mexico.....	915	509	63,118.53		193.80	63,312.33
New York.....	37,423	20,460	9,733,060.45	200,163.77	15,081.43	10,077,316.85
North Carolina.....	4,599	2,097	209,386.33	32,010.23	1,220.35	242,616.91
North Dakota.....	2,353	1,714	65,201.49	344.60	1,192.60	66,828.69
Ohio.....	16,014	10,155	2,136,603.60	99,982.93	10,999.38	2,247,588.00
Oklahoma.....	5,839	2,729	240,628.77	19,648.67	715.19	260,992.63
Oregon.....	4,854	2,073	146,410.08	29,693.29	604.73	176,709.10
Pennsylvania.....	17,844	10,548	4,526,640.76	227,449.45	10,827.86	4,766,918.07
Rhode Island.....	1,149	961	256,485.34	22,690.87	192.50	279,308.71
South Carolina.....	2,075	1,632	81,670.75	5,945.02	513.30	88,129.67
South Dakota.....	2,105	1,468	56,079.52	2,093.86	1,105.30	59,278.68
Tennessee.....	4,323	2,594	225,627.60	18,701.80	456.52	244,785.92
Texas.....	8,513	5,071	584,747.95	44,447.69	5,009.33	634,204.97
Utah.....	1,418	1,354	226,439.76	9,671.67	354.03	236,465.46
Vermont.....	813	563	51,905.60	4,434.76	302.80	56,643.16
Virginia.....	4,979	2,838	406,314.10	28,428.56	2,406.70	437,147.38
Washington.....	8,347	3,409	311,263.61	3,663.07	1,792.47	316,709.15
West Virginia.....	4,647	2,486	307,595.93	8,235.13	2,882.22	318,633.28
Wisconsin.....	10,959	5,915	582,206.32	30,336.70	554.24	618,097.16
Wyoming.....	1,311	611	51,532.41	954.32	339.58	52,816.21
Totals.....	299,445	174,205	37,106,395.47	1,743,074.08	137,482.73	38,966,063.88

FEDERAL INCOME TAX

Comparative statement of corporation returns received, number of taxable returns, and the amount of tax assessed against corporations during the years ended June 30, 1914, and June 30, 1915, by districts.

District	1914			1915		
	Returns Received	Returns Showing Tax Due	Total Tax Assessed ¹	Returns Received	Returns Showing Tax Due	Total Tax Assessed ¹
Alabama.....	4,102	3,238	\$ 298,781.72	3,104	2,591	\$ 196,751.55
Arkansas.....	2,333	1,456	123,844.16	2,363	1,570	83,073.47
First California.....	13,177	6,294	1,397,898.52	12,207	6,040	1,178,998.51
Sixth California.....	7,191	3,272	516,860.10	8,102	3,091	432,701.23
Colorado.....	9,241	3,500	389,822.57	9,114	3,453	389,391.96
Connecticut.....	5,830	4,345	1,001,063.68	3,816	3,229	819,245.46
Florida.....	2,239	1,499	123,581.68	2,693	1,412	103,217.88
Georgia.....	4,783	3,588	359,600.61	4,763	3,009	288,004.16
Hawaii.....	537	387	116,668.73	564	379	198,482.62
First Illinois.....	14,716	9,346	3,962,892.98	16,057	7,644	3,222,951.30
Fifth Illinois.....	1,200	720	170,364.70	1,059	640	120,103.32
Eighth Illinois.....	2,577	1,798	140,005.31	2,788	1,818	130,415.97
Thirteenth Illinois.....	1,921	1,130	112,855.30	2,156	1,250	95,305.11
Sixth Indiana.....	5,446	3,453	576,458.50	5,399	3,497	492,981.35
Seventh Indiana.....	2,043	1,472	124,404.70	2,449	1,521	117,805.42
Third Iowa.....	7,484	5,232	413,701.58	8,142	5,342	403,370.96
Kansas.....	5,008	2,727	327,941.63	4,346	3,070	232,698.78
Second Kentucky.....	1,203	843	35,217.14	1,251	754	31,180.45
Fifth Kentucky.....	1,746	1,191	254,367.43	1,917	1,151	235,057.07
Sixth Kentucky.....	450	311	23,007.96	477	298	20,706.59
Seventh Kentucky.....	784	511	50,140.26	899	515	37,612.42
Eighth Kentucky.....	568	398	35,258.83	671	396	19,285.27
Louisiana.....	3,255	2,169	366,581.75	3,772	2,014	206,749.57
Maryland.....	6,380	3,721	761,697.25	5,781	3,058	616,311.23
Third Massachusetts.....	10,407	6,852	1,955,253.53	7,017	6,325	1,674,496.16
First Michigan.....	5,184	3,818	1,119,449.06	5,754	3,411	1,023,096.26
Fourth Michigan.....	8,128	1,918	265,354.47	3,326	1,813	257,097.41
Minnesota.....	8,427	5,747	1,485,289.30	8,828	5,424	1,199,714.78
First Missouri.....	7,068	4,897	948,775.14	8,004	4,187	705,345.05
Sixth Missouri.....	5,358	3,636	353,011.38	5,665	3,583	345,195.61
Montana.....	7,191	5,530	425,927.46	3,937	3,724	443,910.76
Nebraska.....	5,267	3,141	212,074.89	4,684	3,084	224,342.68
New Hampshire.....	5,021	3,209	447,374.72	4,577	3,058	398,089.11
First New Jersey.....	3,101	1,417	271,282.88	2,516	1,326	240,393.91
Fifth New Jersey.....	7,090	4,110	1,267,265.46	4,319	3,626	1,049,928.97
New Mexico.....	1,821	935	140,649.52	1,941	854	130,444.51
First New York.....	5,480	2,641	387,519.18	5,631	2,608	425,003.80
Second New York.....	13,514	6,219	6,734,159.16	12,183	5,859	6,342,964.89
Third New York.....	8,654	5,477	1,733,499.20	4,875	4,310	1,587,441.64
Fourteenth New York.....	4,767	2,892	479,860.82	5,076	2,459	467,270.56
Twenty-first New York.....	8,691	2,327	302,384.75	3,398	1,982	290,942.34
Twenty-eighth New York.....	5,977	3,572	979,264.87	6,260	3,251	639,347.22
Fourth North Carolina.....	2,270	1,673	91,142.04	2,277	1,590	76,257.22
Fifth North Carolina.....	2,316	1,575	149,132.55	2,322	1,407	133,129.11
North and South Dakota.....	5,304	3,622	130,988.81	4,458	3,182	134,371.01
First Ohio.....	4,480	2,433	514,434.58	3,410	2,061	472,763.33
Tenth Ohio.....	8,062	1,977	975,916.40	8,037	1,953	371,252.03
Eleventh Ohio.....	3,431	2,003	230,725.67	3,171	1,851	197,150.20
Eighteenth Ohio.....	6,038	4,273	1,390,729.14	6,346	4,290	1,095,438.13
Oklahoma.....	6,112	2,833	238,044.33	5,839	2,729	240,628.77
Oregon.....	4,497	2,332	198,186.65	4,854	2,073	146,410.08
First Pennsylvania.....	6,858	3,938	2,558,418.23	6,936	3,799	2,149,888.49
Ninth Pennsylvania.....	4,171	2,716	459,450.83	3,603	2,607	553,590.85
Twelfth Pennsylvania ^a				83	47	19,092.62
Twenty-third Pennsylvania.....	7,030	4,558	2,669,148.21	7,222	4,095	1,806,068.80
South Carolina.....	3,246	1,906	134,637.67	2,075	1,532	81,670.75
Tennessee.....	4,798	2,649	289,891.79	4,323	2,504	225,627.60
Third Texas.....	8,310	5,887	713,038.95	8,513	5,071	584,747.95
Second Virginia.....	2,332	1,631	311,556.12	2,898	1,531	262,316.09
Sixth Virginia.....	2,033	1,427	203,404.90	2,039	1,277	142,161.00
Washington.....	10,069	4,283	385,527.03	8,504	3,490	317,511.96
West Virginia.....	4,449	2,575	351,557.68	4,647	2,485	307,595.93
First Wisconsin.....	6,240	3,399	484,911.45	6,500	3,270	445,314.57
Second Wisconsin.....	4,663	2,618	146,767.88	4,459	2,645	136,891.35
Totals.....	316,900	188,866	43,395,500.09	290,446	174,205	37,106,395.47

¹The figures given in these columns represent taxes assessed on basis of returns received and do not include the 50 per cent and 100 per cent additional tax or special excise taxes assessed during the year.

^aRe-established May 1, 1915.

STATISTICS

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Comparative statement of corporation returns received, number of taxable returns and the amount of tax assessed against corporations during the years ended June 30, 1914, and June 30, 1915, by States.

States and Territories	1914			1915		
	Returns Received	Returns Showing Tax Due	Total Tax Assessed ¹	Returns Received	Returns Showing Tax Due	Total Tax Assessed ¹
Alabama.....	2,747	2,137	\$ 208,486.14	1,912	1,576	\$ 146,923.54
Alaska.....	174	70	4,631.24	157	82	6,268.35
Arizona.....	963	489	87,537.37	1,026	346	67,325.98
Arkansas.....	2,333	1,456	123,844.16	2,363	1,570	83,073.47
California.....	19,321	9,227	1,864,322.49	19,939	8,816	1,571,855.37
Colorado.....	7,863	2,970	338,994.76	7,803	2,842	337,859.58
Connecticut.....	4,096	3,193	682,247.42	2,667	2,268	562,760.12
Delaware.....	975	461	183,894.67	843	448	117,693.84
District of Columbia.....	1,170	451	185,144.03	966	564	123,855.73
Florida.....	2,239	1,499	123,581.68	2,693	1,412	103,217.88
Georgia.....	4,783	3,588	359,601.61	4,763	3,009	288,004.18
Hawaii.....	537	257	116,968.73	564	379	198,483.62
Idaho.....	1,398	708	54,577.92	968	878	87,184.78
Illinois.....	20,234	12,994	4,386,118.30	23,060	11,352	3,577,775.70
Indiana.....	7,489	4,925	700,863.20	7,848	5,018	610,786.77
Iowa.....	7,484	5,232	413,701.58	8,142	5,342	403,370.96
Kansas.....	5,008	2,727	327,941.63	4,346	3,070	232,698.78
Kentucky.....	4,761	3,264	397,901.63	5,215	3,114	343,841.83
Louisiana.....	3,355	2,169	366,581.75	3,772	2,014	296,455.57
Maine.....	2,027	1,878	307,504.94	2,824	1,829	272,129.88
Maryland.....	4,195	2,778	391,187.08	3,928	2,016	372,923.68
Massachusetts.....	10,407	6,852	1,955,253.53	7,017	6,325	1,674,496.16
Michigan.....	8,312	5,236	1,387,803.53	9,080	5,224	1,280,193.67
Minnesota.....	8,427	5,747	1,485,289.29	8,828	5,424	1,199,714.78
Mississippi.....	1,355	1,101	90,795.58	1,192	1,015	49,828.01
Missouri.....	12,446	8,533	1,301,786.52	13,669	7,770	1,050,640.56
Montana.....	2,606	1,306	150,519.20	1,551	1,492	130,306.23
Nebraska.....	5,267	3,141	212,074.89	4,684	3,084	224,342.68
Nevada.....	1,047	339	50,431.13	370	315	39,833.76
New Hampshire.....	965	736	83,291.03	940	666	74,053.86
New Jersey.....	10,191	5,537	1,538,968.34	6,835	4,952	1,290,322.88
New Mexico.....	838	446	53,112.15	915	508	63,118.58
New York.....	42,083	23,128	10,621,717.97	37,423	20,468	9,753,060.48
North Carolina.....	4,556	3,248	240,274.59	4,599	2,997	200,386.33
North Dakota.....	2,671	1,987	77,947.40	2,353	1,714	68,291.49
Ohio.....	17,011	10,686	2,681,805.79	16,014	10,155	2,136,008.69
Oklahoma.....	6,112	2,833	236,044.33	5,839	2,729	240,628.77
Oregon.....	4,497	2,332	198,186.65	4,854	2,073	146,410.08
Pennsylvania.....	18,059	11,212	5,687,017.28	17,844	10,545	4,528,640.76
Rhode Island.....	1,734	1,152	318,181.26	1,149	961	256,488.34
South Carolina.....	3,246	1,995	134,037.67	2,075	1,532	81,670.75
South Dakota.....	2,633	1,635	53,041.41	2,105	1,468	56,079.52
Tennessee.....	4,798	2,649	289,891.79	4,323	2,594	225,627.80
Texas.....	8,310	5,887	713,038.95	8,513	5,071	584,747.98
Utah.....	3,187	1,396	220,830.34	1,418	1,254	226,439.78
Vermont.....	1,129	595	56,578.75	813	863	51,908.80
Virginia.....	4,405	3,059	516,432.49	4,979	2,838	406,314.10
Washington.....	9,895	4,213	380,895.70	8,347	3,403	311,253.61
West Virginia.....	4,449	2,575	351,557.68	4,647	2,485	307,595.93
Wisconsin.....	10,903	6,017	631,679.33	10,959	5,915	582,206.22
Wyoming.....	1,378	581	53,928.12	1,311	611	51,533.41
Totals.....	316,900	188,866	43,395,500.09	299,445	174,205	37,106,396.47

¹The figures given in these columns represent taxes assessed on basis of returns received and do not include the 50 per cent and 100 per cent additional tax or special excise taxes assessed during the year.

FEDERAL INCOME TAX

Tax assessed on corporations during the year ended June 30, 1916, on basis of revenue agents' examinations of returns for the years 1909 to 1914, by divisions.

Division	1909	1910	1911	1912	1913	1914	Total
Albany ¹	\$ 3,137.64	\$ 4,310.04	\$ 5,626.72	\$21,644.92	\$20,600.44	\$-----	\$ 64,328.76
Atlanta	8,619.77	11,974.34	13,939.64	18,493.31	18,424.37	124.94	71,566.37
Baltimore	1,319.03	1,725.82	1,722.49	7,831.68	2,235.02	42.40	14,876.44
Boston	8,377.08	12,189.45	22,781.37	41,367.99	43,843.46	5,238.37	133,797.72
Buffalo ²	27.04	28.16	50.49	77.02	149.51	107.99	440.31
Chicago	5,042.23	13,338.60	13,283.78	27,192.64	43,261.21	4,249.47	106,367.03
Cincinnati	17,076.93	20,429.32	19,753.71	30,756.47	22,173.76	624.55	101,013.73
Denver	1,208.88	5,374.49	7,315.07	21,584.38	8,914.57	831.72	45,231.11
Detroit ³	349.12	852.59	658.45	620.08	563.81	4,438.38	7,452.43
Elizabethtown	1,841.39	2,972.24	1,178.89	735.10	1,090.61	454.11	8,273.34
Greensboro	7,013.13	9,603.74	8,206.10	13,908.71	15,450.56	246.73	54,527.96
Hartford ²	4,814.16	5,987.87	5,146.89	5,555.84	8,279.04	292.88	30,076.68
Indianapolis	9,862.99	17,625.38	12,561.38	13,159.39	9,771.57	2,161.08	65,131.77
Little Rock	271.22	370.88	411.52	1,225.06	1,375.04	-----	3,656.72
Louisville	4,635.46	7,273.46	8,340.59	12,224.30	12,172.92	661.14	45,307.57
Milwaukee ²	1,238.86	1,552.31	1,371.19	2,849.62	1,371.16	1,071.85	9,444.90
Nashville	4,604.31	5,964.09	7,848.42	5,967.73	6,983.56	414.80	31,782.91
New Orleans	4,469.15	9,290.94	13,067.94	11,490.06	51,700.27	486.21	90,513.57
New York	45,745.42	62,722.30	91,390.96	139,038.56	187,596.71	10,546.37	537,639.33
Omaha	5,934.91	6,776.88	9,942.32	8,890.06	7,251.83	334.79	39,080.79
Parkersburg ²	128.60	311.65	258.56	878.55	1,841.08	733.02	4,150.55
Philadelphia	44,163.54	43,680.80	49,985.70	86,928.40	132,302.35	19,737.56	376,803.35
Pittsburg ²	538.82	557.69	1,068.19	2,129.79	559.68	933.25	6,387.42
Portland	5,934.45	10,193.38	8,552.99	8,420.56	6,995.17	728.15	41,544.70
Richmond	3,937.03	7,151.41	6,160.82	7,323.50	8,983.98	1,304.67	34,761.41
Roanoke ²	1,836.92	2,829.30	3,358.53	5,770.34	8,922.89	-----	22,718.48
St. Louis	6,870.54	12,880.52	17,029.07	18,456.38	21,978.23	9,592.34	86,887.06
St. Paul	11,287.52	16,605.91	14,890.76	14,341.90	16,448.50	2,211.74	75,786.33
Salt Lake ²	17.73	116.71	448.06	5,452.95	351.06	36.70	6,423.20
San Antonio	10,418.65	15,832.50	18,289.95	19,781.83	25,360.44	1,119.94	90,803.31
San Francisco	22,744.42	11,876.50	16,942.92	42,078.83	53,831.36	1,318.02	148,787.05
Totals....	243,522.03	323,009.86	382,171.46	586,176.95	750,096.25	70,526.14	2,355,591.69

¹Discontinued and reestablished at Buffalo.

²Established during the year.

³Discontinued and reestablished at Parkersburg, W. Va.

PERSONAL INCOME TAX DIVISION

The following statements show the number of individuals making returns under the act of October 3, 1913, for the calendar year 1914.

Collection District		Single		Married		Women		Men		Married Women		Married Men		Total Features	
		Wives	Wives	Wives	Wives	Wives	Wives	Wives	Wives	Wives	Wives	Wives	Wives	Wives	Wives
Alabama.....	1,117	262	68	29	20	10	8	3	1	412	176	11	2,938	1,552	
Alaska.....	550	1,156	423	261	159	63	81	26	7	101	77	16	1,938	1,035	
Arizona.....	466	960	4,494	1,082	529	264	174	89	39	14	1,004	1,035	136	12,855	
First California.....	3,343	1,783	2,403	1,211	311	128	72	38	18	9	9,916	1,035	30	6,912	
Second California.....	1,003	648	1,679	871	472	269	197	215	123	64	5,406	821	30	3,411	
Colorado.....	1,994	571	3,303	625	291	120	43	31	26	20	1,802	433	160	9,760	
Connecticut.....	478	648	1,174	223	133	616	312	16	10	7	1,461	1,456	75	8	
Florida.....	811	648	1,744	291	120	43	31	26	20	10	2,901	426	152	8,179	
Georgia.....	245	530	970	2,510	1,182	636	411	177	237	122	84	1,246	1,246	21	7,799
Hawaii.....	444	337	649	1,115	411	26	24	19	9	8	1,266	202	99	27,755	
Illinois.....	849	649	1,208	2,443	1,071	60	24	9	5	5	2,549	394	215	3,168	
First Illinois.....	354	247	485	1,071	39	26	7	8	2	1	1,076	148	61	1,286	
Second Illinois.....	1,000	842	1,524	380	146	83	47	58	14	10	536	183	11	4,156	
Indiana.....	370	238	517	136	43	21	12	7	10	8	2	1,437	183	7	7,417
First Indiana.....	2,107	1,434	2,594	551	204	92	65	64	27	35	1,154	180	83	7,215	
Second Indiana.....	923	626	1,114	246	73	36	28	17	12	11	6,101	762	292	3,101	
Michigan.....	99	85	163	34	8	2	3	1	1	1	2,641	346	116	3,350	
First Michigan.....	400	233	692	174	79	29	19	28	17	11	2,326	444	95	1,654	
Second Michigan.....	109	73	110	31	8	10	2	4	1	2	1,311	248	33	1,352	
Ohio.....	150	89	204	44	22	13	2	4	1	1	304	90	50	529	
Seventh Indiana.....	178	45	74	12	4	4	2	2	1	1	419	119	50	1	
Eighth Indiana.....	963	658	1,266	2,072	1,068	98	43	35	21	8	188	50	13	2,231	
Kansas.....	3,415	2,769	4,078	1,106	490	265	162	166	76	97	2,876	630	218	3,724	
Second Kentucky.....	400	233	801	2,043	1,063	665	436	540	294	375	1,072	2,266	1,945	192	
Third Kentucky.....	109	73	110	31	8	10	2	4	1	1	3,171	1,822	3,300	21,968	
Fourth Kentucky.....	150	89	204	44	22	13	2	4	1	1	721	306	63	5,907	
Fifth Kentucky.....	178	45	74	12	4	4	2	2	1	1	2,382	289	121	2,338	
Sixth Kentucky.....	963	658	1,266	2,072	1,068	98	43	35	21	8	1,973	517	731	52,105	
Seventh Kentucky.....	3,415	2,769	4,078	1,106	490	265	162	166	76	97	2,876	630	218	3,724	
Eighth Kentucky.....	400	233	801	2,043	1,063	665	436	540	294	375	1,072	2,266	1,945	192	
Alabama.....	1,318	1,072	3,846	8,001	2,426	1,043	581	87	110	62	1,266	44	18	31,383	
Massachusetts.....	837	447	858	223	95	49	42	35	9	13	2,382	289	121	2,338	
Pennsylvania.....	1,211	1,114	2,279	571	273	173	67	122	66	20	1,973	517	731	52,105	
Missouri.....	1,677	1,317	2,326	615	213	188	113	121	50	66	2,382	558	1,071	44,441	
Arkansas.....	1,263	1,047	3,856	422	174	124	44	48	26	11	1,444	44	16	3,831	
Oklahoma.....	623	565	1,023	2,043	1,063	490	265	162	166	76	97	2,876	630	218	3,724

Personal income tax—Statistical record, by districts, based on net incomes as shown by returns, for the calendar year 1914.

Collection District		Single		Married Women		Married Men		Widowed		Divorced		Total Returns	
		Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross
Nebraska.....	673	1,201	263	108	38	9	3	1	1	1	2,960	366	100
New Hampshire.....	607	1,158	338	134	60	34	42	12	1	1	2,942	438	14
First New Jersey.....	584	1,038	300	39	64	27	24	9	14	1	2,952	423	22
Fifth New Jersey.....	270	4,482	1,147	516	292	181	186	101	127	54	4,481	907	155
New Mexico.....	234	4,449	1,116	466	264	170	168	34	86	38	4,451	1,053	125
First New York.....	3,681	5,543	4,246	1,106	2,447	1,216	1,035	584	347	426	1,922	1,701	158
Second New York.....	3,762	5,762	7,706	2,333	9,751	7,117	6,165	723	48	30	31	17	3
Third New York.....	4,628	4,287	9,751	3,428	891	414	220	134	163	90	168	56	59
Fourteenth New York.....	1,132	1,780	2,753	1,548	422	211	96	67	43	25	8	10	2
Twenty-first New York.....	940	867	1,548	721	254	176	106	119	50	88	24	40	2
Twenty-eighth New York.....	1,773	1,372	2,753	1,70	350	23	20	3	6	2	1	1	1
Fourth North Carolina.....	214	167	373	103	40	16	4	3	10	3	1	1	1
Fifth North Carolina.....	238	266	660	122	53	21	9	16	4	3	1	1	1
North and South Dakota.....	72	854	1,836	635	222	136	92	96	87	64	17	30	4
First Ohio.....	1,060	386	712	166	84	45	23	28	13	25	11	4	3
Tenth Ohio.....	616	396	803	184	70	44	27	20	9	15	8	3	1
Eleventh.....	503	396	713	327	173	133	129	80	79	22	26	4	2
Eighteenth Ohio.....	1,874	1,425	2,682	120	56	37	39	11	14	12	3	4	1
Oklahoma.....	318	573	544	1,155	898	187	89	41	27	19	10	4	1
Oregon.....	827	1,083	6,421	1,037	1,001	485	383	213	232	99	90	35	18
Ninth Pennsylvania.....	3,352	3,534	1,792	492	241	99	63	66	44	48	13	17	4
Tenth Pennsylvania.....	950	831	1,792	19	41	3	1	4	1	3	2	1	1
Twenty-third Pennsylvania.....	43	26	0.40	3,466	999	612	293	166	179	106	121	50	27
South Carolina.....	2,210	198	3,250	86	29	11	7	3	2	1	1	10	6
Tennessee.....	821	691	1,155	307	160	54	33	50	11	14	4	4	1
Texas.....	2,328	1,606	2,934	723	324	147	168	95	48	34	21	13	1
Second Virginia.....	559	411	722	221	89	35	35	23	15	7	4	3	1
Birth Virginia.....	476	433	860	208	93	63	37	25	19	19	10	5	1
Washington.....	1,420	880	1,431	843	139	67	39	38	26	17	10	3	2
West Virginia.....	494	400	738	212	100	33	34	20	16	9	10	5	1
First Wisconsin.....	1,241	808	1,548	421	180	92	46	46	61	49	14	2	1
Second Wisconsin.....	636	386	631	139	64	23	23	9	6	6	14	1	1
Total.....	82,754	56,525	127,448	34,141	15,700	8,672	55,453	6,008	3,185	2,600	1,801	11,189	406
												238	180
												147	90
												1174	282,806
												3,988	367,119

Personal income less Statistical record, by States, based on net incomes as shown by returns, for the calendar year 1914.

State or Territory		Single		Married Women		Married Women and other dependents		Total Features	
								Male	Female
Alabama.....	489	377	761	192	54	16	5	282	137
Alaska.....	49	30	48	9	4	1	3	20	2
Arizona.....	192	122	272	72	28	14	10	116	107
Arkansas.....	486	340	586	109	42	16	4	104	91
California.....	5,038	3,900	6,766	1,730	784	433	247	263	102
Colorado.....	876	676	959	269	112	69	24	36	16
Connecticut.....	1,508	1,260	2,637	669	337	170	131	152	85
Delaware.....	176	158	362	97	38	15	20	19	6
District of Columbia.....	1,388	1,057	1,648	361	145	92	29	30	13
Florida.....	478	303	615	150	92	26	19	24	7
Georgia.....	811	645	1,174	291	120	43	81	26	20
Hawaii.....	245	145	238	79	33	16	12	16	10
Idaho.....	118	113	183	41	18	9	3	4	1
Illinois.....	8,118	6,543	12,162	2,975	1,369	738	466	613	268
Indiana.....	1,370	1,434	2,041	515	159	104	59	65	24
Iowa.....	2,187	1,434	2,564	551	204	92	65	64	27
Kansas.....	933	626	1,114	246	72	36	28	17	12
Kentucky.....	836	684	1,183	296	121	68	38	18	11
Louisiana.....	963	683	1,285	378	166	98	43	49	21
Maine.....	152	275	644	166	67	63	25	29	16
Maryland.....	1,824	1,538	2,711	654	206	158	87	90	40
Massachusetts.....	4,120	3,846	8,001	2,246	1,063	655	436	540	294
Michigan.....	1,985	1,529	2,901	894	624	224	120	145	71
Minnesota.....	1,231	1,154	2,279	571	273	178	107	123	67
Mississippi.....	268	173	336	70	37	14	13	4	5
Missouri.....	3,139	2,192	3,891	1,037	489	290	163	166	111
Montana.....	998	673	1,201	606	265	19	10	5	2
Nebraska.....	88	66	102	15	9	2	1	8	3
Nevada.....	110	98	280	84	100	27	18	29	1
New Hampshire.....	170	139	350	107	35	33	15	27	11
New Jersey.....	3,518	2,868	5,360	1,447	1,077	343	220	240	131
New Mexico.....	1,171	1,123	1,883	543	33	10	6	10	6

Personal income less—Statistical record, by States, based on net incomes as shown by returns, for the calendar year 1914.

State or Territory			Single		Married		Women		Married Women		Married Men		Total Features											
	Year	Age	Year	Age	Year	Age	Year	Age	Year	Age	Year	Age	Year	Age										
New Mexico.....	1980	14	1912	28	177	29	392	16	1,613	21	1,216	17	1,017	11	505									
New York.....	1980	14	1937	27	703	16	93	16	1,617	16	6	1,216	16	1,418	11									
North Carolina.....	1952	132	1952	32	1,155	24	9	2	1,157	11	1	1,157	11	1,157	11									
North Dakota.....	1943	3,063	1943	6,334	1,658	703	398	276	283	159	173	63	9	1,866	18									
Ohio.....	3,963	3,000	1940	6,136	577	644	57	29	14	13	3	4	1	6	1,206	16								
Oklahoma.....	3,118	2,773	1940	5,345	898	89	41	27	19	10	10	5	1	2	1,234	17								
Oregon.....	827	634	1940	3,447	1,788	879	562	617	354	404	124	59	30	15	1,223	16								
Pennsylvania.....	7,138	5,980	1940	12,220	1,014	300	135	90	63	35	47	34	1	1	2,197	15								
Rhode Island.....	456	429	1940	1,220	1,014	300	135	90	63	35	47	34	1	1	2,197	15								
South Carolina.....	230	198	1950	3,350	86	250	11	66	7	3	2	1	1	1	747	14								
South Dakota.....	230	124	1950	4,429	42	28	12	3	6	2	1	1	1	1	411	13								
Tennessee.....	2,383	1,606	1940	2,934	984	307	160	54	53	50	11	14	4	4	1,027	12								
Texas.....	2,383	1,606	1940	2,934	984	723	334	147	108	98	48	34	21	12	1,027	12								
Utah.....	204	189	1940	345	97	504	22	14	9	7	5	1	1	1	1,027	12								
Vermont.....	77	134	1940	429	63	81	17	10	1	11	2	1	1	1	494	11								
Virginia.....	1,042	863	1940	1,590	433	159	88	76	58	35	26	9	13	1	3,874	10								
Washington.....	1,371	850	1940	1,388	333	135	65	33	33	29	17	10	5	1	4,622	10								
West Virginia.....	494	783	1940	2,176	560	120	33	23	33	16	9	10	5	1	3,211	9								
Wisconsin.....	1,877	1,194	1940	2,176	560	115	34	22	52	22	16	9	1	1	6,443	9								
Wyoming.....	128	73	1940	122	42	16	9	8	9	2	1	1	1	1	452	8								
Totals.....	32,764	66,525	1974	127,448	34,141	15,700	8,673	5,483	6,008	3,186	3,640	1,901	11,180	408	233	130	147	60	174	283,806	311,729	22,960	3,956	357,615

PART VIII

INDEX

All of the preceding seven parts of this book are included herein under one combined alphabetical index. For general subjects, refer to Table of Contents.

References herein to the Analysis (Part I) are abbreviated to "A," followed by the number of the paragraph, as "A49," referring to ¶49 of the Analysis.

Part II, The Complete Statute, is referred to as "St." followed by the letter reference to the section, as "St. Ga," referring to Statute, section G, and subsection a.

Treasury Regulations, Part III, are abbreviated as "T. R.," followed by the number of the article, as "T. R. 141," referring to Article 141 of the Treasury Regulations.

Treasury Department special rulings, Part IV, are abbreviated as "T. D.," followed by the number, as "T. D. 2006," referring to Treasury Department ruling No. 2006.

The Supreme Court opinion in the *Brushaber case*, Part V, is referred to as "Sup. Ct." followed by the page of the book.

Forms and Statistics, Part VI and Part VII, are given in full wherever mentioned.

The reason for this method of indexing in preference to indexing by pages is that the index references here given apply to the Statute and Regulations wherever found in any publication.

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